MISSISSIPPI PRACTICE SERIES

Mississippi Model Jury Instructions

Criminal

Mississippi Judicial College

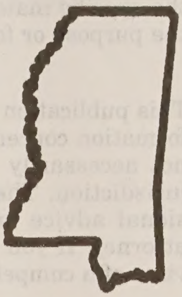
2020-2021 Edition

THOMSON
REUTERS

Digitized by the Internet Archive
in 2021 with funding from
Public.Resource.Org

https://archive.org/details/mississippimodel00unse_0

Mississippi
Model Jury Instructions



CRIMINAL

Mississippi Judicial College

2020-2021 Edition
Issued in November 2020

THOMSON REUTERS®

For Customer Assistance Call 1-800-328-4880

Mat #42577539

© 2020 The Mississippi Judicial College
© 2020 Thomson Reuters

For authorization to photocopy, please contact the **Copyright Clearance Center** at 222 Rosewood Drive, Danvers, MA 01923, USA (978) 750-8400, http://www.copyright.com or **West's Copyright Services** at 610 Opperman Drive, Eagan, MN 55123, copyright.west@thomsonreuters.com. Please outline the specific material involved, the number of copies you wish to distribute and the purpose or format of the use.

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

UNIVERSITY OF MISSISSIPPI LAW CENTER

Mississippi Judicial College

A Division of

The University of Mississippi School of Law

Mailing Address:

Mississippi Judicial College

115 Northgate - Crosby Hall

PMB 9446

University, MS 38677

Physical Address:

Kinard Hall – Wing E

University, MS 38677

662-915-5955 (Main Line)

662-915-7845 (Fax)

msjudcol@olemiss.edu

THOMSON REUTERS

WESTLAW™

MOST PREFERRED ONLINE LEGAL RESEARCH SERVICE

Thomson Reuters Westlaw has been voted the #1 Best Online Legal Research vendor year-after-year by industry professionals. That's because we continually invest more than any other online legal research provider in our people and technology where it matters most. As a result, you find exactly what you need quickly and confidently.

- Build the strongest argument with the most comprehensive collection of legal content
- Deliver better results confidently with WestSearch®, the only search engine designed specifically for the law
- Rely on the most current version of the law with proprietary editorial enhancements
- Access your legal research anytime, anywhere with the free Westlaw apps

---

LEARN MORE: legal.thomsonreuters.com
SIGN ON: westlaw.com
24/7 REFERENCE ATTORNEYS: 1-800-REF-ATTY (733-2889)

Summary of Contents

Chapter 1. Court's Standard Instructions
Chapter 2. Affirmative Defenses
Chapter 3. Definitions
Chapter 4. Controlled Substances
Chapter 5. Offenses Involving Motor Vehicles
Chapter 6. Conspiracy, Accessories, and Attempts
Chapter 7. Assault
Chapter 8. Offenses Affecting Persons
Chapter 9. Offenses Affecting Children
Chapter 10. Offenses Affecting Administration of Justice
Chapter 11. Offenses Involving Public Officials
Chapter 12. Offenses Affecting Property
Chapter 13. False Pretenses
Chapter 14. Gambling, Forgery, and Counterfeiting
Chapter 15. Offenses Affecting Trade, Business, or Profession
Chapter 16. Offenses Affecting Public Morals and Decency
Chapter 17. Weapons and Explosives
Table of Laws and Rules
Table of Cases
Index

Table of Contents

CHAPTER 1. COURT'S STANDARD INSTRUCTIONS

I. ISSUE BY ISSUE INSTRUCTIONS; INTRODUCTORY; CRIMINAL CASES

§ 1:1 Preliminary instructions—Criminal cases
§ 1:2 General instructions—Criminal cases
§ 1:3 Jurors may not use electronic media to discuss the case until the end of trial
§ 1:4 Jurors are not to conduct any research about the case
§ 1:5 Checklist for drafting criminal instructions
§ 1:6 General pattern instruction—Criminal offenses
§ 1:7 —Lesser included offenses
§ 1:8 Note taking forbidden during trial
§ 1:9 Note taking permitted during trial
§ 1:10 Use of notes during deliberations

II. BURDEN OF PROOF; EVIDENTIARY MATTERS

§ 1:11 Presumption of innocence
§ 1:12 Reasonable doubt
§ 1:13 Reasonable doubt from evidence
§ 1:14 Defendant's right not to testify
§ 1:15 Admissibility of defendant's statement for impeachment purposes
§ 1:16 Admissibility of evidence for limited purpose
§ 1:17 Credibility of witnesses—Generally
§ 1:18 Weight and credibility of accomplice testimony
§ 1:19 Prior inconsistent statements by witnesses
§ 1:20 Circumstantial evidence
§ 1:21 —Two-theory instruction

III. DELIBERATIONS

§ 1:22 Selection of foreman—Communicating with the court during deliberations
§ 1:23 Unanimous verdict
§ 1:24 Instruction for deadlocked jury—Approved for use within Mississippi state courts
§ 1:25 Additional instruction for deadlocked jury; Fifth Circuit modified Allen charge

IV. VERDICT FORMS
§ 1:26 Form of the verdict
§ 1:27 Form of the verdict when sentence of life imprisonment possible
§ 1:28 —Bifurcated Hearing
§ 1:29 Sentencing instruction—Capital case (Effective July 1, 2013)

CHAPTER 2. AFFIRMATIVE DEFENSES
§ 2:1 Alibi as a defense
§ 2:2 Attempt—Abandonment of intent to commit crime
§ 2:3 —When impossibility a defense
§ 2:4 Duress
§ 2:5 Entrapment
§ 2:6 Insanity defense
§ 2:7 —Form of the verdict
§ 2:8 Voluntary intoxication no defense
§ 2:9 Mistake of fact
§ 2:10 Mistake or ignorance of law—When specific intent or actual knowledge is in issue
§ 2:11 —When only general intent is in issue
§ 2:12 Mistake or ignorance in drug offenses
§ 2:13 Self-defense
§ 2:14 —Use of deadly force against threat of serious bodily injury
§ 2:15 Imperfect self-defense

CHAPTER 3. DEFINITIONS
§ 3:1 Accessory after the fact
§ 3:2 Accessory before the fact
§ 3:3 Accomplice
§ 3:4 Aider and abettor
§ 3:5 Breaking—Burglary
§ 3:6 Circumstantial and direct evidence
§ 3:7 Confession
§ 3:8 Conspiracy
§ 3:9 Counterfeit substance
§ 3:10 Culpable negligence
§ 3:11 Curtilage
§ 3:12 Deadly weapon
§ 3:13 Deliberate design
§ 3:14 Deliver or delivery
§ 3:15 Driving under the influence
§ 3:16 Educational property
§ 3:17 Entering—Burglary
§ 3:18 Flight

§ 3:19 Flight by defendant
§ 3:20 Manufacture
§ 3:21 Peace officer
§ 3:22 Possession; actual and constructive
§ 3:23 Precursor
§ 3:24 Production
§ 3:25 Sale, sell, or selling
§ 3:26 Sexual intercourse
§ 3:27 Strangle—Definition
§ 3:28 Use of a deadly weapon—Homicide
§ 3:29 Vulnerable adult

CHAPTER 4. CONTROLLED SUBSTANCES

§ 4:1 Sale of controlled substance to a minor
§ 4:2 Possession of controlled substance with intent to distribute to a minor
§ 4:3 Sale of controlled substance on or near school ground
§ 4:4 Possession of controlled substance with intent to distribute on or near school ground
§ 4:5 Possession of Schedule I or II controlled substance
§ 4:6 Sale of Schedule I or II controlled substance
§ 4:7 Possession of Schedule I or II controlled substance with intent to distribute
§ 4:8 Possession of Schedule III, IV, or V controlled substance
§ 4:9 Sale of Schedule III, IV, or V controlled substance
§ 4:10 Possession of Schedule III, IV, or V controlled substance with intent to distribute
§ 4:11 Possession of marijuana or synthetic cannabinoids
§ 4:12 Sale of marijuana or synthetic cannabinoids
§ 4:13 Possession of marijuana or synthetic cannabinoids with intent to distribute
§ 4:14 Possession of two or more precursors with intent to manufacture a controlled substance
§ 4:15 Possession of two or more precursors where circumstances indicate an intent to manufacture a controlled substance
§ 4:16 Constructive possession of two or more precursors with intent to manufacture a controlled substance
§ 4:17 Constructive possession of two or more precursors where circumstances indicate an intent to manufacture a controlled substance

CHAPTER 5. OFFENSES INVOLVING MOTOR VEHICLES

§ 5:1 Driving under the influence
§ 5:2 —Second offense

§ 5:3 —Third offense
§ 5:4 —Definition
§ 5:5 —Chemical test results available—Person above the legal age to purchase alcoholic beverages
§ 5:6 — —Person below the legal age to purchase alcoholic beverages
§ 5:7 —Causing death or injury to another
§ 5:8 Operating a commercial motor vehicle under the influence—Chemical test results available
§ 5:9 Violation of motor vehicle or traffic regulations

CHAPTER 6. CONSPIRACY, ACCESSORIES, AND ATTEMPTS

§ 6:1 Conspiracy
§ 6:2 Accessory before the fact
§ 6:3 Accessory after the fact
§ 6:4 General attempt instruction
§ 6:5 Attempted murder instruction
§ 6:6 Aider and abettor

CHAPTER 7. ASSAULT

§ 7:1 Simple assault—Attempt to cause bodily injury to another
§ 7:2 — —Upon a law enforcement officer or other official
§ 7:3 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:4 —Purposely, knowingly causes bodily injury to another
§ 7:5 — —Upon a law enforcement officer or other official
§ 7:6 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:7 —Recklessly causes bodily injury to another
§ 7:8 — —Upon a law enforcement officer or other official
§ 7:9 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:10 —Negligently causes bodily injury to another with a deadly weapon
§ 7:11 — —Upon a law enforcement officer or other official
§ 7:12 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:13 —Negligently causes bodily injury to another using other means likely to produce death or serious bodily harm
§ 7:14 — —Upon a law enforcement officer or other official
§ 7:15 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:16 —Attempts by physical menace to put another in fear of imminent serious bodily harm

§ 7:17 ——Upon a law enforcement officer or other official
§ 7:18 ——Upon a person 65 years of age or older or a vulnerable adult
§ 7:19 Aggravated assault—Attempts to cause serious bodily injury to another
§ 7:20 ——Upon a law enforcement officer or other official
§ 7:21 ——Upon a person 65 years of age or older or a vulnerable adult
§ 7:22 —Purposely, knowingly causes serious bodily injury
§ 7:23 —Purposely, knowingly causes serious bodily injury to another—Upon a law enforcement officer or other official
§ 7:24 ——Upon a person 65 years of age or older or a vulnerable adult
§ 7:25 —Recklessly under circumstances manifesting extreme indifference to the value of human life
§ 7:26 ——Upon a law enforcement officer or other official
§ 7:27 ——Upon a person 65 years of age or older or a vulnerable adult
§ 7:28 —Attempts to cause bodily injury to another with a deadly weapon
§ 7:29 ——Upon a law enforcement officer or other official
§ 7:30 ——Upon a person 65 years of age or older or a vulnerable adult
§ 7:31 —Purposely or knowingly causes bodily injury to another with a deadly weapon
§ 7:32 ——Upon a law enforcement officer or other official
§ 7:33 ——Upon a person 65 years of age or older or a vulnerable adult
§ 7:34 —Attempts to cause bodily injury to another using a means likely to produce death or serious bodily harm
§ 7:35 ——Upon a law enforcement officer or other official
§ 7:36 ——Upon a person 65 years of age or older or a vulnerable adult
§ 7:37 —Purposely or knowingly causes bodily injury to another using a means likely to produce death or serious bodily harm
§ 7:38 ——Upon a law enforcement officer or other official
§ 7:39 ——Upon a person 65 years of age or older or a vulnerable adult
§ 7:40 —Injured a child who was getting on or off a school bus
§ 7:41 Assault with intent to ravish
§ 7:42 Simple domestic violence
§ 7:43 Simple domestic violence—Attempts by physical menace to put family member in fear of imminent serious bodily harm
§ 7:44 Aggravated domestic violence

§ 7:45 —Strangling
§ 7:46 —Attempted to strangle
§ 7:47 Strangle—Definition

CHAPTER 8. OFFENSES AFFECTING PERSONS

§ 8:1 Murder—Deliberate design (malice aforethought)
§ 8:2 —Depraved heart
§ 8:3 —Engaged in the commission of felony (noncapital)
§ 8:4 —Deliberate design death of unborn child
§ 8:5 —As lesser included offense
§ 8:6 Capital murder—Killing a peace officer or other official
§ 8:7 —Defendant under a life sentence
§ 8:8 —Use or detonation of a bomb or explosive device
§ 8:9 —Defendant offered or received something of value for committing the murder
§ 8:10 —Engaged in the commission of a felony
§ 8:11 —Engaged in felonious child abuse or battery
§ 8:12 —Perpetrated on educational property
§ 8:13 —Killing an elected official
§ 8:14 Manslaughter—Engaged in the commission of a felony (noncapital)
§ 8:15 —Engaged in the commission of a misdemeanor
§ 8:16 —Resisting an unlawful act
§ 8:17 —Victim engaged in trespass
§ 8:18 —Heat of passion
§ 8:19 —Dangerous animal
§ 8:20 —Culpable negligence
§ 8:21 —As lesser included offense
§ 8:22 —Overloading a boat
§ 8:23 —Assisting a person to commit suicide
§ 8:24 Kidnapping—Forcible seizure with or without intent to secretly confine
§ 8:25 —With intent to confine or imprison against the victim's will
§ 8:26 —Selling, buying, attempting to sell or buy a child
§ 8:27 Kidnapping child under age 16
§ 8:28 Kidnapping vulnerable adult
§ 8:29 Interstate removal of child under age 14 by noncustodial parent or relative
§ 8:30 Statutory rape—Victim at least age 14 but under age 16
§ 8:31 —Victim is under age 14
§ 8:32 Robbery
§ 8:33 —Threat to injure person or relative at another time
§ 8:34 —Use of deadly weapon

§ 8:35 Attempted armed robbery
§ 8:36 Carjacking
§ 8:37 Armed carjacking
§ 8:38 Mayhem

CHAPTER 9. OFFENSES AFFECTING CHILDREN

§ 9:1 Abandonment of child under age six
§ 9:2 Desertion or nonsupport of child under age 18
§ 9:3 Enticement of child for concealment, prostitution, or marriage
§ 9:4 Fondling of child under age 16 or a mentally defective person
§ 9:5 Fondling of child under age 18 by person of authority
§ 9:6 —Definition of person of authority
§ 9:7 Depicting a child under age 18 engaged in sexual conduct
§ 9:8 —Definition of sexual conduct
§ 9:9 Sexual battery
§ 9:10 Sexual battery by person of authority—Definition of person of authority
§ 9:11 Carnal knowledge of a stepchild, adopted child, or child of cohabitating partner
§ 9:12 Felonious child abuse—With or without bodily harm
§ 9:13 —With bodily harm
§ 9:14 —With serious bodily harm

CHAPTER 10. OFFENSES AFFECTING ADMINISTRATION OF JUSTICE

§ 10:1 Escape—Conveying articles useful for escape to prisoners
§ 10:2 —Aiding the escape of a felon
§ 10:3 —Concealing or harboring an escaped prisoner
§ 10:4 Escape or attempted escape from penitentiary or custody
§ 10:5 Intimidation of judge, juror, witness, or attorney—Obstruction of justice
§ 10:6 Perjury—Definition
§ 10:7 Subornation of perjury
§ 10:8 Bribery to procure perjury
§ 10:9 Resisting or obstructing arrest
§ 10:10 Obstruction of justice—Definition of giving criminal assistance
§ 10:11 —Hindering prosecution of a felony
§ 10:12 —Hindering prosecution of a misdemeanor
§ 10:13 —Bribing a witness

§ 10:14 —Receiving a bribe by a witness
§ 10:15 —Intimidating a witness
§ 10:16 —Tampering with a witness
§ 10:17 —Bribing a judge
§ 10:18 —Bribing a juror
§ 10:19 —Receiving a bribe by a juror
§ 10:20 —Intimidating a juror
§ 10:21 —Tampering with a juror
§ 10:22 —Tampering with evidence
§ 10:23 —Retaliation

CHAPTER 11. OFFENSES INVOLVING PUBLIC OFFICIALS

§ 11:1 Bribery
§ 11:2 Acceptance of a bribe
§ 11:3 Embezzlement—Wrongful act as to public money or property
§ 11:4 —Failure to pay over money or deliver property
§ 11:5 —Willful or bad faith refusal to deliver materials to successor in office
§ 11:6 —False entry with intent to defraud—Public official
§ 11:7 —Certifying or endorsing false warrant—Public official
§ 11:8 —Unauthorized loan of public money or property with intent to defraud—Public official

CHAPTER 12. OFFENSES AFFECTING PROPERTY

§ 12:1 Arson—First degree—Burning dwelling house or outbuilding
§ 12:2 — —Burning school building
§ 12:3 — —Failure to report accidental fire at school building
§ 12:4 —Second degree—Burning of any building
§ 12:5 —Third degree—Burning personal property
§ 12:6 —Fourth degree—Willful and malicious attempt to burn
§ 12:7 —Setting a fire to woods, marsh, or meadow—Felony
§ 12:8 — —Misdemeanor
§ 12:9 — — —Definition of reckless and gross negligence
§ 12:10 Arson of insured property
§ 12:11 Aggravated assault upon a fire fighter—Intentional or unintentional injury to fire fighter caused by arson
§ 12:12 Burglary—Breaking and entering a dwelling
§ 12:13 —Breaking and entering a dwelling with a deadly weapon
§ 12:14 —Breaking and entering a dwelling with circumstances likely to terrorize

§ 12:15 —Breaking out of a dwelling
§ 12:16 —Breaking inner door of dwelling by one lawfully in house
§ 12:17 —Buildings other than a house
§ 12:18 Possession of burglar's tools
§ 12:19 Burglary with explosives
§ 12:20 Grand larceny
§ 12:21 Larceny by severing crops, fences, or improvements
§ 12:22 Larceny by stealing livestock
§ 12:23 Larceny by stealing timber
§ 12:24 Larceny by tenants in common
§ 12:25 Larceny of property obtained by lease or rental agreement
§ 12:26 Receiving stolen property
§ 12:27 Looting
§ 12:28 Injuring or destroying cemetery property, churches, schools, or public buildings
§ 12:29 Injuring or defacing cemetery property, churches, schools, or public buildings
§ 12:30 Removing out of state property subject to lien
§ 12:31 Removing property subject to legal seizure—Intent to prevent seizure

CHAPTER 13. FALSE PRETENSES

§ 13:1 False personation to marry, become a surety, confess a judgment or acknowledge a deed
§ 13:2 False personation to receive money
§ 13:3 Fraud—Obtaining a signature with intent to deceive
§ 13:4 Misrepresenting the identity of a child with intent to intercept an inheritance
§ 13:5 Receiving deposits into an insolvent bank
§ 13:6 Selling or encumbering property previously sold or encumbered
§ 13:7 Substituting child to deceive parent or guardian
§ 13:8 Bad checks
§ 13:9 —Closing an account

CHAPTER 14. GAMBLING, FORGERY, AND COUNTERFEITING

§ 14:1 Possession of a gambling device
§ 14:2 Forgery of account books in public office
§ 14:3 Forgery of account books of corporation
§ 14:4 False certification of acknowledgment of deed
§ 14:5 Issuing false security, stock or indorsement
§ 14:6 Signing a false name to corporate evidences of debt
§ 14:7 Destroying, erasing, or obliterating a writing deemed a forgery

§ 14:8 Uttering instrument in own name under pretense it is act of another with intent to defraud
§ 14:9 Connecting parts of written instruments to produce one instrument
§ 14:10 Forgery of court documents, licenses, or other instruments
§ 14:11 Possession of counterfeit bank notes or other forged instruments with intent to defraud
§ 14:12 Forgery of court or probate records
§ 14:13 Forgery of official or corporate seal
§ 14:14 Forgery of a treasury warrant
§ 14:15 Forgery of will, deed, or other instrument affecting property rights
§ 14:16 Sale of counterfeit note, check, or other evidence of debt
§ 14:17 Forgery—Engraving plate to print note, check, or other evidence of debt
§ 14:18 —Possession of plate to print note, check, or other evidence of debt
§ 14:19 —Possession of an impression from plate used to alter evidence of debt

CHAPTER 15. OFFENSES AFFECTING TRADE, BUSINESS, OR PROFESSION

§ 15:1 Embezzlement by employee, agent, bailee, or trustee
§ 15:2 Embezzlement of evidence of debt
§ 15:3 Receiving or buying embezzled goods
§ 15:4 Embezzlement of property held in trust or received on contract
§ 15:5 Practicing law, medicine, dentistry or pharmacy without a license
§ 15:6 —Second (or third) offense
§ 15:7 Shoplifting
§ 15:8 Illegal possession, sale, barter, or gift of intoxicating beverage

CHAPTER 16. OFFENSES AFFECTING PUBLIC MORALS AND DECENCY

§ 16:1 Cohabitation, adultery, or fornication between persons forbidden to marry
§ 16:2 —Leaving state to marry
§ 16:3 Bigamy
§ 16:4 Incest between persons forbidden to marry
§ 16:5 Using telephone to make obscene phone calls or using telecommunication or electronic communication to threaten, annoy, or harass
§ 16:6 Unnatural carnal intercourse

§ 16:7 Voyeurism
§ 16:8 Grave robbing
§ 16:9 Bribery involving an athletic contest
§ 16:10 Accepting a bribe involving an athletic contest

CHAPTER 17. WEAPONS AND EXPLOSIVES

§ 17:1 Carrying a concealed weapon—Third offense
§ 17:2 —By a convicted felon
§ 17:3 Possessing a weapon—By a convicted felon
§ 17:4 Possessing a weapon on educational property

Table of Laws and Rules

Table of Cases

Index

Chapter 1

Court's Standard Instructions

I. ISSUE BY ISSUE INSTRUCTIONS; INTRODUCTORY; CRIMINAL CASES

§ 1:1 Preliminary instructions—Criminal cases
§ 1:2 General instructions—Criminal cases
§ 1:3 Jurors may not use electronic media to discuss the case until the end of trial
§ 1:4 Jurors are not to conduct any research about the case
§ 1:5 Checklist for drafting criminal instructions
§ 1:6 General pattern instruction—Criminal offenses
§ 1:7 —Lesser included offenses
§ 1:8 Note taking forbidden during trial
§ 1:9 Note taking permitted during trial
§ 1:10 Use of notes during deliberations

II. BURDEN OF PROOF; EVIDENTIARY MATTERS

§ 1:11 Presumption of innocence
§ 1:12 Reasonable doubt
§ 1:13 Reasonable doubt from evidence
§ 1:14 Defendant's right not to testify
§ 1:15 Admissibility of defendant's statement for impeachment purposes
§ 1:16 Admissibility of evidence for limited purpose
§ 1:17 Credibility of witnesses—Generally
§ 1:18 Weight and credibility of accomplice testimony
§ 1:19 Prior inconsistent statements by witnesses
§ 1:20 Circumstantial evidence
§ 1:21 —Two-theory instruction

III. DELIBERATIONS

§ 1:22 Selection of foreman—Communicating with the court during deliberations
§ 1:23 Unanimous verdict
§ 1:24 Instruction for deadlocked jury—Approved for use within Mississippi state courts
§ 1:25 Additional instruction for deadlocked jury; Fifth Circuit modified Allen charge

IV. VERDICT FORMS

§ 1:26 Form of the verdict
§ 1:27 Form of the verdict when sentence of life imprisonment possible
§ 1:28 —Bifurcated Hearing
§ 1:29 Sentencing instruction—Capital case (Effective July 1, 2013)

Research References

West's Key Number Digest

Conspiracy ⚷23 to 48.3, 51; Criminal Law ⚷304 to 572, 769 to 869; Evidence ⚷90 to 601; Grand Jury ⚷1 to 44; Jury ⚷1 to 8, 38 to 150

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

Forms

Am. Jur. Pleading and Practice Forms, Trial §§ 210 to 313

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

I. ISSUE BY ISSUE INSTRUCTIONS; INTRODUCTORY; CRIMINAL CASES

§ 1:1 Preliminary instructions—Criminal cases

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Members of the jury, it is appropriate that I give some preliminary instructions.

You have now been *[sworn/selected]* as the jury to try this case. As jurors, you will hear the evidence, decide the disputed issues of fact, apply the law to the facts, and render a verdict.

It is my duty to ensure that the trial is conducted in a fair and orderly manner. I rule on any objections or motions and instruct you on the law applicable to this case. You are required to follow the law as given by me.

You should give careful attention to the testimony and evidence presented during the trial, but you should not form or express any opinion about the case one way or the other until you have heard all of the evidence and have the benefit of the instructions of the law and the closing arguments of the attorneys.

To avoid any appearance of impropriety, you are prohibited from having any conversation with the attorneys or anyone else connected with this case. You must not discuss this case with anyone during the trial, not even among yourselves. If anyone should attempt to discuss this case with you or within your hearing, you should immediately move away and report the matter to me or to the bailiff.

You must not read any newspaper articles about the case and you must not listen to any news broadcasts or watch any news telecasts about this case.

You are not permitted to visit or view any scene or location involved in this case or make any independent investigation. Your duty is to decide this case solely on the basis of the testimony and evidence presented here in open court and not on some matter gathered outside the courtroom.

During the trial, I may be required to rule on motions or objections made by the lawyers. You should not infer from my rulings or from anything I may say or do that I have any opinion on the merits of this case favoring one side or the other.

It may be necessary that I conduct some of the hearings on objections or motions outside your presence. ________ *[I will try to estimate the time needed for the hearing and for recesses, but they may be extended by new issues.]* Your patience and understanding will contribute to a fair and orderly trial even though it may seem to go slowly.

Sitting and listening for a long period of time may be tiring for some of you. If you feel you need a rest break, do not hesitate to ask for a recess. If I notice that a juror appears to be drowsy or inattentive, I will call for a short intermission and you should not think it is a reflection on you in any way.

The next stage of the trial is opening statements by the attorneys. They are given the opportunity to explain the issues and summarize the facts they expect the evidence to show. What they say is not evidence, but you should listen closely so you will understand what the issues are and can listen to the witnesses to be able to decide those issues. _______ *[The defense has the right to waive opening statement or to make its opening statement at a later time in the trial.]*

Following the opening statements, witnesses will be called to testify under oath and will be examined by the attorneys calling them and cross-examined by the attorneys for the other side. Documents and other exhibits may also be introduced as evidence for your consideration when you are deliberating on your verdict.

After both sides finally rest, I will review the instructions of law with the attorneys and then they will be read to you. You will be permitted to take the instructions with you to the jury deliberation room.

Following the instructions, the State is permitted to argue the case to you. Then the defense argues the case, followed by any State rebuttal argument.

You will then retire to the jury room to consider your verdict and that should be the first time that you discuss the case.

§ 1:2 General instructions—Criminal cases

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Members of the jury, you have heard all of the testimony and received the evidence and will hear the arguments of counsel shortly. I will now instruct you as to the rules of law which you will apply to this evidence in reaching your verdict.

When you took your places in the jury box, you made an oath that you would follow and apply these rules to the evidence in reaching your verdict in this case. It is, therefore, your duty as jurors to follow the law which I shall now state to you.

You are not to be concerned with the wisdom of any rule of law. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your sworn duty to base your verdict upon any other view of law than that given in these instructions.

You are not to single out one instruction alone as stating the law, but you must consider these instructions as a whole.

It is your exclusive province to determine the facts in this case and to consider and weigh the evidence for that purpose. The authority thus vested in you is not an arbitrary power, but must be exercised with sincere judgment, sound discretion and in accordance with the rules of law.

Both the State of Mississippi and the defendant have a right to expect that you will conscientiously consider and weigh the evidence and apply the law of the case.

It is your duty to determine the facts and to determine them from the evidence produced in open court. You are to apply the law to the facts and in this way decide the case. You should not be influenced by bias, sympathy or prejudice. Your verdict should be based on the evidence and not upon speculation, guesswork or conjecture.

You are required and expected to use your good common sense and sound honest judgment in considering and weighing the testimony of each witness who has testified in this case.

The evidence which you are to consider consists of the testimony and statement of the witnesses and the exhibit(s) offered and received. You are also permitted to draw such reasonable inferences from the evidence as seem justified in light of your own experience.

Arguments, statements and remarks of counsel are intended to help you understand the evidence and apply the law, but are not evidence. If any argument, statement or remark has no basis in the evidence, then you should disregard that argument, statement or remark.

The production of evidence in court is governed by rules of law. From time to time during the trial it has been my duty as judge to rule on the admissibility of evidence. You must not concern yourselves with the reasons for my rulings since they are controlled and governed by the rules of law. You should not infer from my rulings on these motions or objections to the evidence that I have any opinion on the merits favoring one side or the other. You should not speculate as to possible answers to questions which I did not require to be answered. Further, you should not draw any inference from the content of these questions.

You are to disregard all evidence which I excluded from consideration during the course of the trial.

If in stating the law to you, I repeat any rule, direction, or idea; or if I state the same in varying ways, no emphasis is intended and you must not draw any inference therefrom. The order in which these instructions are given has no significance as to their relative importance.

§ 1:3 Jurors may not use electronic media to discuss the case until the end of trial

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

When you go home during the trial, do not talk to your family, friends, or others about the case. You may tell them you are a juror on a case and that is all that you should tell them. Do not discuss your experiences as a juror while the trial and deliberations are going on. Do not e-mail, blog, tweet, text or post anything to your Facebook, MySpace, Twitter, or other social networking sites about this trial. Do not visit any "chat rooms" where this case may be discussed.

§ 1:4 Jurors are not to conduct any research about the case

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Until you are discharged from serving on this jury, you are not to read, listen to, or watch any news reports about this case. You must not do any research on your own or as a group. You must not use dictionaries, a computer, your phone, the Internet, or use any other research materials to learn anything about this case. You are not to contact anyone, including a family doctor, accountant, or attorney, to ask him/her anything about this case. You must not visit or view the scene(s) of any event(s) involved in this case.

You must decide this case based only on the evidence presented in this trial and the instructions of law that I will give you.

§ 1:5 Checklist for drafting criminal instructions

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

I. Preliminary Instructions
    A. General Page No. ____ ☐
    B. Other Introductory Explanation
        1. Note-taking Page No. ____ ☐
        2. Questions by Jurors Page No. ____ ☐
        3. Joint Defendants Page No. ____ ☐
        4. Stipulations Page No. ____ ☐
        5. Depositions or Prior Testimony Page No. ____ ☐
        6. Judicial Notice Page No. ____ ☐
II. Court's Basic Instructions Page No. ____ ☐
III. Elements of Charged Crimes Page No. ____ ☐
    A. Count 1 Page No. ____ ☐
        1. Lesser Crime Page No. ____ ☐
        2. Lesser Crime Page No. ____ ☐
    B. Count 2 Page No. ____ ☐
        1. Lesser Crime Page No. ____ ☐
        2. Lesser Crime Page No. ____ ☐
IV. Special and Other Defenses Page No. ____ ☐
    A. Self-defense Page No. ____ ☐
    B. Defense of Another Page No. ____ ☐
    C. Duress or Coercion Page No. ____ ☐
    D. Entrapment Page No. ____ ☐

	E.	Alibi	Page No. ___ ☐
	F.	Character Evidence	Page No. ___ ☐
	G.	Insanity	Page No. ___ ☐
	H.	Ignorance or Mistake	Page No. ___ ☐
	I.	Other	Page No. ___ ☐
V.	Evidentiary and Other Matters		
	A.	Credibility of Witnesses	Page No. ___ ☐
	B.	Prior Inconsistent Statements	Page No. ___ ☐
	C.	Prior Consistent Statements	Page No. ___ ☐
	D.	Confessions	Page No. ___ ☐
		1. Weight	Page No. ___ ☐
		2. Impeachment Only	Page No. ___ ☐
		3. Other	Page No. ___ ☐
	E.	Character Evidence	Page No. ___ ☐
		1. Defendant	Page No. ___ ☐
		2. Others	Page No. ___ ☐
	F.	Defendant's Failure to Testify	Page No. ___ ☐
	G.	Accomplice Testimony	Page No. ___ ☐
	H.	Experts	Page No. ___ ☐
	I.	Other Acts of Misconduct	Page No. ___ ☐
	J.	Indictment Not Evidence	Page No. ___ ☐
	K.	Presumption of Innocence	Page No. ___ ☐
	L.	Reasonable Doubt	Page No. ___ ☐
		1. Lack of Evidence, etc.	Page No. ___ ☐
		2. Probabilities	Page No. ___ ☐
		3. Definitions	Page No. ___ ☐
		4. Other	Page No. ___ ☐
	M.	Unanimous Verdict	Page No. ___ ☐
	N.	Form of Verdict	Page No. ___ ☐
	O.	Use of Notes	Page No. ___ ☐
	P.	Selection of Foreman	Page No. ___ ☐
	Q.	Allen Charge	Page No. ___ ☐
	R.	Date and Venue	Page No. ___ ☐
VI.	Sentencing		
	A.	Unanimous Sentencing	Page No. ___ ☐
VII.	Definitions		
	A.		Page No. ___ ☐
	B.		Page No. ___ ☐
	C.		Page No. ___ ☐
	D.		Page No. ___ ☐
	E.		Page No. ___ ☐
VIII.	Death Penalty		Page No. ___ ☐

NOTES TO FORM

Practice Notes

Rogers v. State, 95 So. 3d 623 (Miss. 2012) (The Model Jury Instructions publication contains a "checklist for drafting criminal instructions" which includes "date and venue" under the category "evidentiary and other matters.").

§ 1:6 General pattern instruction—Criminal offenses

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of *[name of offense]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]*
3. *[Description of elements]*

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Turner v. State, 796 So. 2d 998, 1003 (Miss. 2001) (substitution of word "unlawfully" for "without authority of law" is permissible).

Rogers v. State, 95 So. 3d 623, 631–32 (Miss. 2012) (The Mississippi Supreme Court noted that Mississippi Criminal Jury Instruction § 1:6, "General Pattern Instruction" requires the county of offense to be listed in the jury instruction).

See Wordlaw v. State, 218 So. 3d 768, 769 (Miss. Ct. App. 2017) (venue is considered an essential element to a criminal prosecution).

§ 1:7 General pattern instruction—Lesser included offenses

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If you find that the State has failed to prove any one or more of the essential elements of the crime charged, you must find the defendant not guilty of the charge. You will then proceed with your deliberations to decide whether the State has proved beyond a reasonable doubt all of the elements of the lesser crime of ________.

If you find from all of the evidence in this case beyond a reasonable doubt that:

1. ________________________________
2. ________________________________
3. ________________________________
4. ________________________________

then you shall find the defendant guilty of ________.

[The lesser included crime contains the same elements as the crime charged, with the exception of the element of ________.]

[Another lesser included crime of the crime charged is the crime of ________.]

If you find from all of the evidence in this case beyond a reasonable doubt that:

1. ________________________________
2. ________________________________
3. ________________________________

then you will find the defendant guilty of the lesser included crime of ________.

[The lesser included crime contains the same elements as the crime charged, with the exception of the element(s) of ________.]

[If you find beyond a reasonable doubt from the evidence in this case that the defendant is guilty of the crime charged or a lesser crime as defined, but you have a reasonable doubt as to the crime of which the defendant is guilty, you must resolve the doubt in favor of the defendant and find him guilty of the lesser crime.]

NOTES TO FORM

Practice Notes

Walker v. Epps, 2007 WL 1452532 (S.D. Miss. 2007) (lesser included offense instruction was in accord with Mississippi Criminal Jury Instruction § 1:7); Chase v. State, 645 So. 2d 829 (Miss. 1994).

§ 1:8 Note taking forbidden during trial

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

You may not take notes during the course of the trial. There are several reasons for this. It is difficult to take notes and, at the same time, pay attention to what a witness is saying. Further, in a group the size of yours, certain persons will take better notes than others will, and there is a risk that jurors who do not take good notes will depend on jurors who do. The jury system depends upon all jurors paying close attention and arriving at a decision. I believe that the jury system works better when the jurors do not take notes. You will notice that we do have an official court reporter making a record of the trial; however, we will not have typewritten transcripts of this record available for your use in reaching a decision in this case.

NOTES TO FORM

Practice Notes

This instruction comes from Mississippi Rule of Criminal Procedure 18.6.

Coleman v. Ford Motor Co., 70 So. 3d 223, 223-34 (Miss. Ct. App. 2011) (The trial court permitted the jurors to take notes during the trial, but gave an abbreviated preliminary instruction on note-taking. However, the trial court gave the complete form instruction at the close of the evidence. Therefore, the appellate court found this alleged issue to be without merit.).

Vardaman v. State, 966 So. 2d 885, 891 (Miss. Ct. App. 2007) (The trial court asked the jurors if they were interested in taking notes during trial. Six jurors responded that they would like to do so. However, the court did not give the preliminary instruction regarding note taking until after the State had begun to examine its first witness. During a break early on in the examination, the court then gave the proper instruction. The appellate court found this constituted a harmless error on the part of the trial judge.

§ 1:9 Note taking permitted during trial

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If you would like to do so, you may take notes during the course of the trial. On the other hand, you are not required to take notes if you prefer not to do so. Each of you should make your own decision about this. If you decide to take notes, be careful not to get so involved in note taking that you become distracted from the ongoing proceedings. Notes are only a memory aid and a juror's notes may be used only as an aid to refresh that particular juror's memory and assist that juror in recalling the actual testimony. Each of you must rely on your own independent recollection of the proceedings. Whether you take notes or not, each of you must form and express your own opinion as to the facts of this case. An individual juror's notes may be used by that juror only and may not be shown to or shared with other jurors. You will notice that we do have an official court reporter making a record of the trial; however, we will not have typewritten transcripts of this record available for your use in reaching a decision in this case.

NOTES TO FORM

Practice Notes

This instruction comes from Mississippi Rule of Criminal Procedure 18.6.

Coleman v. Ford Motor Co., 70 So. 3d 223, 233–34 (Miss. Ct. App. 2011) (The trial court permitted the jurors to take notes during the trial, but gave an abbreviated preliminary instruction on note-taking. However, the trial court gave the complete form instruction at the close of the evidence. Therefore, the appellate court found this alleged issue to be without merit.).

Vardaman v. State, 966 So. 2d 885 (Miss. Ct. App. 2007) (The trial court asked the jurors if they were interested in taking notes during trial. Six jurors responded that they would like to do so. However, the court did not give the preliminary instruction regarding note taking until after the State had begun to examine its first witness. During a break early on in the examination, the court then gave the proper instruction. The appellate court found this constituted a harmless error on the part of the trial judge.

§ 1:10 Use of notes during deliberations

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Members of the Jury, shortly after you were selected I informed you that you could take notes and I instructed you as to the appropriate use of any notes that you might take. Most importantly, an individual juror's notes may be used by that juror only and may not be shown to or shared with other jurors. Notes are only a memory aid and a juror's notes may be used only as an aid to refresh that particular juror's memory and assist that juror in recalling the actual testimony. Each of you must rely on your own independent recollection of the proceedings. Whether you took notes or not, each of you must form and express your own opinion as to the facts of this case. Be aware that during the course of your deliberations there might be the temptation to allow notes to cause certain portions of the evidence to receive undue emphasis and receive attention out of proportion to the entire evidence. But a juror's memory or impression is entitled to no greater weight just because he or she took notes, and you should not be influenced by the notes of other jurors. Thus, during your deliberations, do not assume simply because something appears in your notes that it necessarily took place in court.

NOTES TO FORM

Practice Notes

This instruction comes from Mississippi Rule of Criminal Procedure 18.6.

Coleman v. Ford Motor Co., 70 So. 3d 223, 233–234 (Miss. Ct. App. 2011) (The trial court permitted the jurors to take notes during the trial, but gave an abbreviated preliminary instruction on note-taking. However, the trial court gave the complete form instruction at the close of the evidence. Therefore, the appellate court found this alleged issue to be without merit.).

Vardaman v. State, 966 So. 2d 885, 891 (Miss. Ct. App. 2007) (The trial court asked the jurors if they were interested in taking notes during trial. Six jurors responded that they would like to do so. However, the court did not give the preliminary instruction regarding note taking until after the State had begun to examine its first witness. During a break early on in the examination, the court then gave the proper instruction. The appellate court found this constituted a harmless error on the part of the trial judge.

II. BURDEN OF PROOF; EVIDENTIARY MATTERS

§ 1:11 Presumption of innocence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The law presumes every person charged with the commission of a crime to be innocent. This presumption places upon the State the burden of proving the defendant guilty of every material element of the crime with which he/she is charged. Before you can return a verdict of guilty, the State must prove to your satisfaction beyond a reasonable doubt that the defendant is guilty. The presumption of innocence attends the defendant throughout the trial and prevails at its close unless overcome by evidence which satisfies the jury of the defendant's guilt beyond a reasonable doubt. The defendant is not required to prove his/her innocence.

§ 1:12 Reasonable doubt

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The Court instructs the jury that you are bound, in deliberating upon this case, to give the defendant the benefit of any reasonable doubt of the defendant's guilt that arises out of the evidence or want of evidence in this case. There is always a reasonable doubt of the defendant's guilt when the evidence simply makes it probable that the defendant is guilty. Mere probability of guilt will never warrant you to convict the defendant. It is only when, after examining the evidence on the whole, you are able to say on your oaths, beyond a reasonable doubt, that the defendant is guilty that the law will permit you to find him/her guilty. You might be able to say that you believe him/her to be guilty, and yet, if you are not able to say on your oaths, beyond a reasonable doubt, that he/she is guilty, it is your sworn duty to find the defendant "Not Guilty."

§ 1:13 Reasonable doubt from evidence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The Court instructs the jury that a reasonable doubt may arise from the whole of the evidence, the conflict of the evidence, the lack of evidence, or the insufficiency of the evidence; but however it arises, if it arises, it is your sworn duty to find the defendant "Not Guilty."

NOTES TO FORM

Practice Notes

Vaden v. State, 965 So. 2d 1072, 1074 (Miss. Ct. App. 2007) (finding no error where the trial court granted instruction D-6 which stated: The Court instructs the jury that a reasonable doubt may arise from the whole of the evidence, the conflict of the evidence, the lack of evidence, or the insufficiency of the evidence; but however it arises, if it arises, it is your sworn duty to find the defendant Not Guilty.).

Rigby v. State, 826 So. 2d 694, 706 (Miss. 2002) (finding no error where the trial court instructed the jury with instruction C-2, which stated: The Court instructs the Jury that a reasonable doubt of guilt may arise either from the evidence or the lack of evidence or a conflict of evidence, and if, upon consideration of all the evidence in this case, or the lack of it or the conflict of it, such reasonable doubt does exist, then it is your sworn duty as Jurors to return a verdict of Not Guilty.).

But see Hunter v. State, 489 So. 2d 1086, 1089 (Miss. 1986) (instruction described as argumentative and may be categorized as abstract).

§ 1:14 Defendant's right not to testify

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The defendant has the Constitutional right not to testify at trial. You are instructed not to draw any inference from the defendant's failure to testify. The defendant's failure to testify should not in any way be considered by the jury during the course of your deliberations.

NOTES TO FORM

Tate v. State, 20 So. 3d 623, 629 (Miss. 2009).

Practice Notes

This instruction should only be given if the defendant requests the instruction and the defendant did not testify at trial. The trial court should make a finding on the record about the defendant's decision to have or not have this instruction read to the jury.

§ 1:15 Admissibility of defendant's statement for impeachment purposes

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The court instructs the jury that evidence of a statement made by the defendant may not be considered as evidence that the defendant committed the crime of which he/she is charged. It may, however, be used for the limited and sole purpose of ascertaining the defendant's credibility as a witness.

NOTES TO FORM

Practice Notes

Use where confession or statement is admitted solely for impeachment.

§ 1:16 Admissibility of evidence for limited purpose

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The court instructs the jury that evidence of *[description of evidence]* may not be considered as evidence that the defendant committed the crime which the defendant is now charged. It may, however, be used for the limited and sole purpose of *[description of purpose]*.

NOTES TO FORM

Practice Notes

Miss. R. Evid. 404(b).

§ 1:17 Credibility of witnesses—Generally

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Each person testifying under oath is a witness. You have the duty to determine the believability of the witnesses. In performing this duty, you must consider each witness' intelligence, the witness' ability to observe and accurately remember, the witness' sincerity, and the witness' demeanor while testifying. You must consider also the extent the witness is either supported or contradicted by other evidence; the relationship the witness may have with either side; and how the witness might be affected by the verdict. ________ *[You must consider any evidence of the witness' character for truthfulness.]*

In weighing a discrepancy by a witness or between witnesses, you should consider whether it resulted from an innocent mistake or a deliberate falsehood, and whether it pertains to a matter of importance or an unimportant detail.

You may reject or accept all or any part of a witness' testimony and you may reject part and accept other parts of a witness' testimony.

After making your own judgment, you will give the testimony of each witness the credibility, if any, as you may think it deserves.

________ *[The weight of the evidence is not necessarily determined by the number of witnesses testifying as to the existence or nonexistence of any fact. You may find that the testimony of a smaller number of witnesses as to any fact is more credible than the testimony of a larger number of witnesses to the contrary.]*

NOTES TO FORM

Practice Notes

This is a general instruction. It does not adequately instruct the jury when accomplice testimony is offered and the accomplice has received favorable treatment in exchange for his/her testimony. Moore v. State, 787 So. 2d 1282 (Miss. 2001).

§ 1:18 Weight and credibility of accomplice testimony

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The Court instructs the jury that the law looks with suspicion and distrust on the testimony of an alleged accomplice or informant, and requires the jury to weigh that testimony with great care and suspicion. You should weigh the testimony from an alleged accomplice or informant, and passing on what weight, if any, you should give this testimony, you should weigh it with great care and caution, and look upon it with distrust and suspicion.

NOTES TO FORM

Practice Notes

The trial court should grant this accomplice testimony instruction when an accomplice testifies against a defendant and that accomplice has received favorable treatment in exchange for that testimony. The Mississippi Supreme Court has ruled that it was error for an accomplice testimony jury instruction to be denied even though another general instruction on the credibility of witnesses was given because no instruction advised the jury to view with "caution and suspicion" the testimony of an accomplice. Moore v. State, 787 So. 2d 1282 (Miss. 2001) (accomplice was released on own recognizance after giving statement to police concerning defendant and accomplice's case was later ordered nolle prosequi). Wheeler v. State, 560 So. 2d 171 (Miss. 1990) (deleting requirement to view accomplice's testimony with suspicion effectively dilutes instruction).

§ 1:19 Prior inconsistent statements by witnesses

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

You have heard evidence that ________ *[name of witness]* made a statement prior to trial that may be inconsistent with the witness' testimony at this trial. If you believe that an inconsistent statement was made, you may consider the inconsistency in evaluating the believability of the witness' testimony. ________ *[You may not, however, consider the prior statement as evidence of the truth of the matters contained in that prior statement.]*

NOTES TO FORM

Practice Notes

The bracketed last sentence may not be appropriate if the statement is admissible as a voluntary confession of defendant admitted into evidence as part of the State's case in chief, if the statement is admissible as an exception to the hearsay rule, or if the witness adopts the prior statement at trial.

§ 1:20 Circumstantial evidence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The court instructs the jury that if the State has relied on circumstantial evidence to establish its theory of guilt of the defendant, then the evidence for the State must be so strong as to establish the guilt of the defendant, not only beyond a reasonable doubt, but the evidence must be so strong as to exclude every other reasonable hypothesis other than that of guilt.

NOTES TO FORM

Practice Notes

Mississippi requires that the jury be instructed that it must find that each element of the offense has been established beyond a reasonable doubt and to the exclusion of every reasonable hypothesis consistent with innocence.

Manning v. State, 735 So. 2d 323 (Miss. 1999); Givens v. State, 618 So. 2d 1313 (Miss. 1993).

A circumstantial evidence instruction must be given unless there is some type of direct evidence to prove the defendant's guilt, such as eyewitness testimony to the gravamen of the offense charged, a dying declaration, or a confession or an admission by the defendant. If all of the evidence tending to prove the guilt of the defendant is circumstantial, then a circumstantial instruction must be given.

Johnson v. State, 235 So. 3d 1404, 1412 (Miss. 2017) (recognizing § 1:20 as a general circumstantial-evidence instruction).

Reynolds v. State, 136 So. 3d 452, 458 (Miss. Ct. App. 2014) (Reynolds asserts the [Jury Instruction 5 on circumstantial evidence] submitted "was confusing, an inaccurate statement of the law, and placed the burden on the jury to determine whether the case was indeed a circumstantial case." . . . Notwithstanding the specific language relating to the individual counts, this model language [in § 1:20] is identical to the language contained in Jury Instruction 5. Upon review, we find Jury Instruction 5 was a proper circumstantial-evidence instruction under the law. The Mississippi Supreme Court has held: [W]here the evidence for the prosecution is wholly circumstantial in nature, the accused is entitled upon request to have the jury instructed that, before they may convict, they must find that each element of the offense has been established beyond a reasonable doubt and to the exclusion of every reasonable hypothesis consistent with innocence. A circumstantial evidence instruction "must be given only where the prosecution is without a confession and wholly without eyewitnesses to the gravamen of the offense charged.") (citations omitted).

See Keys v. State, 478 So. 2d 266 (Miss. 1985); Alexander v. State, 749 So. 2d 1031 (Miss. 1999); Sheffield v. State, 749 So. 2d 123 (Miss. 1999).

§ 1:21 Circumstantial evidence—Two-theory instruction

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The court instructs the jury that if there be a fact or circumstance in this case which is susceptible of two interpretations, one favorable and the other unfavorable to the defendant, and if after considering all the other facts and circumstances there is reasonable doubt regarding the correct interpretation, then you, the jury, must resolve such doubt in favor of the accused, and place upon such fact or circumstance the interpretation most favorable to the defendant.

NOTES TO FORM

Practice Notes

This instruction is to be used whenever all of the evidence tending to prove the guilt of the defendant is circumstantial. It is to be given in addition to the basic circumstantial evidence instruction.

Petti v. State, 666 So. 2d 754 (Miss. 1995).

III. DELIBERATIONS

§ 1:22 Selection of foreman—Communicating with the court during deliberations

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Upon retiring to the jury room, you will select one from among your number to act as foreperson. The foreperson will preside over your deliberations and will be your spokesperson before the Court.

If it becomes necessary during your deliberations to communicate with the Court, please write out your message or question and pass the note to the bailiff. No member of the jury should ever attempt to communicate with the Court by any means other than a signed writing; and the Court will never communicate with any member of the jury on any subject touching the merits of the case other than in writing or orally here in open court.

Bear in mind also that you are never to reveal to any person—not even to the Court—how the jury stands, numerically or otherwise, on the question of guilt or innocence of the accused until after you have reached a unanimous verdict.

§ 1:23 Unanimous verdict

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The verdict of the jury must represent the considered judgment of each juror. In order to return a verdict, it will be necessary that each juror agree. In other words, all 12 jurors must agree before returning a verdict in this case. It is your sworn duty as jurors to consult with one another and to deliberate in view of reaching an agreement, if you can do so without violence to your individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to reexamine your own views and change your opinion, if convinced it is erroneous, but do not surrender your honest convictions as to the weight or effect of evidence solely because of the opinion of your fellow jurors or for the mere purpose of returning a verdict.

________ *[If there is any juror who is not convinced beyond a reasonable doubt of the defendant's guilt, it is his or her duty to vote "Not Guilty," even though it may cause a mistrial of this case.]*

NOTES TO FORM

Practice Notes

Berry v. State, 859 So. 2d 399 (Miss. Ct. App. 2003); Edlin v. State, 523 So. 2d 42 (Miss. 1988).

§ 1:24 Instruction for deadlocked jury—Approved for use within Mississippi state courts

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

I know that it is possible for honest men and women to have honest, differing opinions about the facts of a case, but if it is possible to reconcile your differences of opinion and decide this case, then you should do so.

Accordingly, I remind you that the court originally instructed you that the verdict of the jury must represent the considered judgment of each juror. It is your duty as jurors to consult with one another and to deliberate in view of reaching agreement if you can do so without violence to your individual judgment. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to reexamine your own views and change your opinion if you are convinced it is erroneous, but do not surrender your honest convictions as to the weight or effect of the evidence solely because of the opinion of your fellow jurors or for the mere purpose of returning a verdict. Please continue your deliberations.

NOTES TO FORM

Practice Notes

The Mississippi Supreme Court officially approved this instruction for a deadlocked jury in a criminal case in Sharplin v. State, 330 So. 2d 591 (Miss. 1976). The court reaffirmed itself in Edlin v. State, 523 So. 2d 42 (Miss. 1988).

§ 1:25 Additional instruction for deadlocked jury; Fifth Circuit modified Allen charge

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.　　　　NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Any verdict that you return must represent the considered judgment of each juror. In order to return a verdict, it will be necessary that each juror agree thereto. Before your verdict can be accepted by the Court, all 12 jurors must agree upon that verdict. It is your duty as jurors to consult with one another and to deliberate and to each agree, if you can do so without violence to your individual judgment. Each of you must decide the case for yourself, but only after impartial consideration of the evidence with your fellow jurors. Do not hesitate to reexamine your own views, do not hesitate to change your opinion if you are convinced that it is erroneous, but also do not surrender your honest conviction as to the weight or effect of the evidence solely because of the opinion of your fellow jurors. Remember at all times you are not partisans, you are judges of the fact and your sole interest is to seek the truth from the evidence in this case.

NOTES TO FORM

Practice Notes

This instruction is not to be used in Mississippi state courts. For use in Mississippi state courts, please see Mississippi Criminal Jury Instruction § 1:22.

U.S. v. Kimmel, 777 F.2d 290, 294 n.3 (5th Cir. 1985) (rejected by, Bolton v. State, 643 So. 2d 942 (Miss. 1994)).

"Allen charge" refers to Allen v. U.S., 164 U.S. 492, 17 S. Ct. 154, 41 L. Ed. 528 (1896). The term describes supplemental instructions urging jurors to forego their differences and reach a unanimous verdict. U.S. v. Heath, 970 F.2d 1397, 1406 n.2, 36 Fed. R. Evid. Serv. 523 (5th Cir. 1992). Upon appeal in federal court, Allen charges are reviewed for compliance with two requirements: (1) that any "semantic deviation from approved Allen charges cannot be so prejudicial as to require reversal; and (2) the circumstances surrounding the giving of an approved Allen charge must not be coercive." U.S. v. Heath, 970 F.2d 1397, 1406, 36 Fed. R. Evid. Serv. 523 (5th Cir. 1992).

IV. VERDICT FORMS

§ 1:26 Form of the verdict

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If you find the defendant guilty as charged, the form of your verdict shall be as follows:

"We, the jury, find the defendant guilty as charged."

If you find the defendant not guilty, the form of your verdict shall be as follows:

"We, the jury, find the defendant not guilty."

You should write your verdict on a separate sheet of paper, and it need not be signed.

NOTES TO FORM

Practice Notes

Doby v. State, 557 So. 2d 533 (Miss. 1990) (form of verdict instruction should be given separately from instruction regarding substantive elements of offense).

§ 1:27 Form of the verdict when sentence of life imprisonment possible

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If you find the defendant guilty as charged, you may fix *[his/her]* punishment at imprisonment for life in the state penitentiary. In this case, the form of your verdict shall be as follows:

"We, the jury, find the defendant guilty as charged and unanimously fix *[his/her]* punishment at imprisonment for life in the state penitentiary."

If you find the defendant guilty as charged, but you, the jury do not unanimously agree that *[his/her]* punishment should be fixed at imprisonment for life in the state penitentiary, the form of your verdict shall be as follows:

"We, the jury, find the defendant guilty as charged."

You are further instructed that if you find the defendant not guilty, the form of your verdict shall be as follows:

"We, the jury, find the defendant not guilty."

Your verdict must be in one of the three forms set forth above, should be on a separate sheet of paper, and need not be signed.

NOTES TO FORM

Practice Notes

Holmes v. State, 481 So. 2d 319 (Miss. 1985); Newton v. State, 229 Miss. 267, 90 So. 2d 375 (1956).

Research References

West's Key Number Digest
Criminal Law ⚷775(3)

§ 1:28 Form of the verdict when sentence of life imprisonment possible—Bifurcated Hearing

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

You have found *[name of defendant]* guilty of *[description of crime]* in count no. *[number of count]*. You must now decide whether or not the Defendant will be sentenced to life imprisonment in the state penitentiary. In reaching your decision, you may objectively consider the detailed circumstances of the offense for which the Defendant has been convicted, and the character and record of the Defendant *[himself/herself]*. You may consider all the evidence offered at the guilt/innocence phase of the trial, as well as the evidence offered at the sentencing phase of the trial which has just been concluded. You should consider and weigh any aggravating or mitigating circumstances as shown from the evidence. However, you are cautioned that you should not be swayed by mere sentiment, conjecture, sympathy, passion, or prejudice. Your decision in this sentencing phase should be written on a separate sheet of paper and need not be signed by you. You should return your verdict in one of the following forms:

1. If you, the Jury, should unanimously agree that the Defendant's punishment should be fixed at life imprisonment in the state penitentiary, the form of your verdict shall be:

> We, the Jury, unanimously agree to fix the Defendant's punishment at life imprisonment in the state penitentiary.

2. If you, the Jury, should be unable to unanimously agree that the Defendant's punishment should be fixed at life imprisonment in the state penitentiary, the form of your verdict shall be:

> We, the Jury, are unable to unanimously agree to fix the Defendant's punishment at life imprisonment in the state penitentiary.

NOTES TO FORM

Practice Notes

Mississippi Rule of Criminal Procedure 24.

§ 1:29 Sentencing instruction—Capital case (Effective July 1, 2013)

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

You are instructed that you have found the defendant, *[name of defendant]*, guilty of the crime of capital murder. You now must decide whether to impose the sentence of life imprisonment, life imprisonment without the possibility of parole, or death. In reaching your decision, you must objectively consider the detailed circumstances of the crime for which the defendant was convicted, as well as the defendant himself/herself. Your deliberations should take place in three distinct phases. Those phases are:

I. First, in order to return and impose a sentence of death, you must unanimously agree that one or more of the following conditions exist beyond a reasonable doubt:

a. The defendant actually killed;
b. The defendant attempted to kill;

c. The defendant intended that a killing take place;

d. The defendant contemplated that lethal force would be employed.

If you unanimously find from the evidence presented in this case that one or more of these conditions exist beyond a reasonable doubt, then you must next examine and weigh any aggravating circumstances against any mitigating circumstances.

II. Second, to return and impose a sentence of death, you must all agree that, after careful examination of the evidence, the aggravating circumstances, meaning those which tend to justify the imposition of the death penalty, outweigh the mitigating circumstances, meaning those which tend to justify the less severe penalty of life imprisonment or life imprisonment without the possibility of parole. If you unanimously find from the evidence presented in this case that beyond a reasonable doubt any one or more of the following aggravating circumstances exist:

a. The *[description of offense]* was committed by a person under sentence of imprisonment;

b. The defendant was previously convicted of another capital offense or of a felony involving the use or threat of violence to the person;

c. The defendant knowingly created a great risk of death to many persons;

d. The *[description of offense]* was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any robbery, rape, arson, burglary, kidnapping, aircraft piracy, sexual battery, unnatural intercourse with any child under the age of twelve, or nonconsensual unnatural intercourse with mankind, or felonious abuse or battery of a child in violation of subsection (2) of Section 97-5-39, or the unlawful use or detonation of a bomb or explosive device;

e. The *[description of offense]* was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody;

f. The *[description of offense]* was committed for pecuniary gain;

g. The *[description of offense]* was committed to disrupt or hinder the lawful exercise of any governmental function of the enforcement of laws;

h. The *[description of offense]* was committed to influence the policy of a governmental entity by intimidation or coercion, or to affect the conduct of a governmental entity by mass destruction or assassination;

i. The *[description of offense]* was especially heinous, atrocious or cruel;

j. The *[description of offense]* was committed to intimidate or coerce a civilian population.

Then you must proceed to examine and weigh the foregoing aggravating circumstances, if any, against the following mitigating circumstances:

a. The defendant has no significant history of prior criminal activity;

b. The *[description of offense]* was committed while the defendant was under the influence of extreme mental or emotional disturbance;

c. The victim was a participant in the defendant's conduct or consented to the act;

d. The defendant was an accomplice in the *[description of offense]* committed by another person and *[his/her]* participation was relatively minor;

e. The defendant acted under extreme duress or under the substantial domination of another person;

f. The capacity of the defendant to appreciate the criminality of *[his/her]* conduct or to conform *[his/her]* conduct to the requirements of law was substantially impaired;

g. The age of the defendant at the time of the *[description of offense]*;

h. Any other matter, any other aspect of the defendant's character or record, and any other circumstance of the offense brought to you during the trial of this case which you find to be mitigating on behalf of the defendant.

III. If, after examining and weighing the mitigating circumstances against the aggravating circumstances, you further unanimously find from the evidence that sufficient aggravating circumstances exist and that there are insufficient mitigating circumstances to outweigh the aggravating circumstances, your verdict must be returned on a separate sheet of paper.

Your verdict, as written on the separate sheet of paper, must contain several written findings of fact. Those findings of fact should be in the following form:

a. If you make the findings described above and your unanimous verdict is that the death penalty should be imposed, your verdict should be in the following form:

> "We, the Jury, find that the defendant, *[name of defendant]*, *[the defendant actually killed/the defendant attempted to kill/the defendant intended that a killing take place/the defendant contemplated that lethal force would be employed]*."
>
> "We, the Jury, unanimously find beyond a reasonable doubt the

following aggravating circumstances: *[list of aggravating circumstances].*"

"We, the Jury, further unanimously find that, after weighing the mitigating circumstances against the aggravating circumstances, that the mitigating circumstances do not outweigh the aggravating circumstances and that the defendant should suffer the penalty of death."

____

[Name of Foreperson]

b. If you fail to unanimously find, beyond a reasonable doubt, any of the conditions set out in Paragraph I, or if you fail to unanimously find, beyond a reasonable doubt any aggravating circumstance; or, if you do unanimously find one or more of the aggravating circumstances beyond a reasonable doubt, but after weighing the aggravating circumstances and the mitigating circumstances, you fail to unanimously find that the aggravating circumstances outweigh the mitigating circumstances; then your verdict should be returned on a separate sheet of paper in the following form:

"We, the Jury, find the defendant should be sentenced to *[life imprisonment/life imprisonment without the possibility of parole]* in the Mississippi Department of Corrections."

c. However, after reasonable deliberations, if you cannot unanimously agree upon a proper sentence, you should certify this disagreement to the Court, and the Court shall impose a sentence of life imprisonment. Your verdict should be returned on a separate sheet of paper in the following form:

"We, the Jury, after due deliberation, have been unable to agree upon judgment and hereby certify same to the Court."

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 99-19-101 (amended 2013).

Manning v. State, 735 So. 2d 323, 352 (Miss. 1999) (Furthermore, the use of the catch-all instruction eliminates the possibility "that the jury was unconstitutionally foreclosed from considering all mitigating circumstances." "A catchall instruction is sufficient to encompass nonstatutory mitigating factors.") (citations omitted).

Neal v. State, 451 So. 2d 743, 761 n.11 (Miss. 1984). (The use of such nonlimiting "any other mitigating circumstances" instructions has been approved by this Court in *Gray v. State*, approving [an] instruction that jury was to consider as a mitigating circumstance "any other matter [besides the statutory mitigating circumstances] brought before you which you may deem to be mitigating on behalf of the defendant." As a matter of practice, such language should be employed in every case to avoid this troublesome point arising in the future.) (citation omitted).

Chapter 2

Affirmative Defenses

§ 2:1 Alibi as a defense
§ 2:2 Attempt—Abandonment of intent to commit crime
§ 2:3 —When impossibility a defense
§ 2:4 Duress
§ 2:5 Entrapment
§ 2:6 Insanity defense
§ 2:7 —Form of the verdict
§ 2:8 Voluntary intoxication no defense
§ 2:9 Mistake of fact
§ 2:10 Mistake or ignorance of law—When specific intent or actual knowledge is in issue
§ 2:11 —When only general intent is in issue
§ 2:12 Mistake or ignorance in drug offenses
§ 2:13 Self-defense
§ 2:14 —Use of deadly force against threat of serious bodily injury
§ 2:15 Imperfect self-defense

Research References

West's Key Number Digest

Criminal Law ⚷31 to 43.5, 304 to 572, 769 to 869

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 2:1 Alibi as a defense

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Alibi" means elsewhere or in another place. In this case, the defendant is asserting the defense of alibi by saying ________ *[state essential facts tending to establish the defendant's alibi].*

"Alibi" is a legal and proper defense in law. The defendant is not required to establish the truth of the alibi to your satisfaction, but if the evidence or lack of evidence in this case raises in the minds of the jury a reasonable doubt as to whether the defendant was present and committed the crime, then you must give the defendant the benefit of any reasonable doubt and find the defendant not guilty.

NOTES TO FORM

Practice Notes

Jackson v. State, 645 So. 2d 921 (Miss. 1994) (Reversible error to omit language in alibi instruction which states: "The defendant is not required to establish the truth of the alibi to your satisfaction.").

§ 2:2 Attempt—Abandonment of intent to commit crime

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If you find from the evidence, beyond a reasonable doubt, that *[name of defendant]* freely and voluntarily abandoned his/her intent to commit the crime of *[description of crime]* before the defendant performed any overt act toward commission of that crime, and if you further believe that there was not an outside cause prompting the abandonment, then you shall find the defendant not guilty.

NOTES TO FORM

Practice Notes

This instruction would be given when some proof of possible abandonment has been introduced into evidence.

The elements of the attempted crime must be included in the general attempt instruction.

Pruitt v. State, 528 So. 2d 828 (Miss. 1988); Bucklew v. State, 206 So. 2d 200 (Miss. 1968).

Research References

West's Key Number Digest
Criminal Law ⚷772 (2,6)

§ 2:3 Attempt—When impossibility a defense

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Impossibility to commit the crime attempted" by the defendant is a defense only when it is inherently impossible. It is not a defense when the impossibility arises from outside interference or because of the defendant's miscalculation as to the expected opportunity to commit the crime. A crime is not impossible when its commission is prevented by outside forces not within the defendant's control.

NOTES TO FORM

Practice Notes

This instruction is to be used whenever the defense of impossibility is raised by the evidence.

Duke v. State, 340 So. 2d 727 (Miss. 1976); Stokes v. State, 92 Miss. 415, 46 So. 627 (1908).

Research References

Legal Encyclopedias
Am. Jur. 2d, Criminal Law § 112

§ 2:4 Duress

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Evidence has been presented that the defendant acted under duress in committing the crime.

"Duress" is the exercise of unlawful force upon a person whereby that person is compelled to do some act that he/she otherwise would not have done. In order for duress to be a defense to a criminal charge, the impelling danger must be present, imminent, and impending, and of such a nature as to induce in that person a well-grounded apprehension of death or serious bodily harm if the act is not done. A person having a reasonable opportunity to avoid committing the crime without undue exposure to death or serious bodily harm cannot invoke duress as a defense.

If the State has failed to prove from the evidence in this case beyond a reasonable doubt ________ *[and to the exclusion of every other reasonable hypothesis]* that the defendant acted voluntarily in committing the crime and not under duress, then you shall find the defendant not guilty.

NOTES TO FORM

Practice Notes

Duress is not an excuse for taking the life of an innocent person (homicide). Watson v. State, 212 Miss. 788, 55 So. 2d 441 (1951); Taylor v. State, 158 Miss. 505, 130 So. 502 (1930).

Duress is a complete defense. Brown v. State, 252 So. 2d 885 (Miss. 1971); Brooks v. State, 236 So. 2d 751 (Miss. 1970); Watson v. State, 212 Miss. 788, 55 So. 2d 441 (1951); Taylor v. State, 158 Miss. 505, 130 So. 502 (1930); Bain v. State, 67 Miss. 557, 7 So. 408 (1890).

Research References

Treatises and Practice Aids

Perkins, Criminal Law § 44

West's Key Number Digest

Criminal Law ⚷772(6)

A.L.R. Library

Coercion, compulsion, or duress as defense to criminal prosecution, 40 A.L.R.2d 908

Legal Encyclopedias
Am. Jur. 2d, Criminal Law § 100

§ 2:5 Entrapment

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The defendant in this case has asserted the affirmative defense of entrapment. The defendant has the burden of proving this defense by clear and convincing evidence. This is a lesser standard than proof beyond a reasonable doubt.

The defendant must establish by clear and convincing evidence that:

1. The law enforcement *[officer/officers]* came up with the idea of committing the crime and not the defendant;
2. The law enforcement *[officer/officers]* encouraged the defendant to commit the crime; and
3. The defendant was not inclined to commit the crime until the law enforcement *[officer/officers]* induced the defendant to commit the crime.

If the defendant has proved by clear and convincing evidence the above listed facts, then you must find the defendant not guilty of *[specification of charges]*.

NOTES TO FORM

Practice Notes
Miss. Code Ann. § 99-1-25.

§ 2:6 Insanity defense

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If you find that the State has proved beyond a reasonable doubt all the essential elements of ________ *[state offense]* then you must find the defendant guilty of ________ *[state offense]* unless the State has failed to prove beyond a reasonable doubt that the defendant was sane at the time of the commission of the offense you find to have been committed.

In order to prove the defendant sane at the time of the commission of ________ *[state offense]*, the State must prove beyond a reasonable doubt that at the time of the commission of ________ *[state offense]*, the defendant had the mental capacity to realize and appreciate the nature and quality of his/her act(s) and to distinguish between right and wrong with reference to the act(s) he/she committed.

If after considering all of the evidence in this case you find the State has failed to prove beyond a reasonable doubt that the defendant was sane at the time of the commission of ________ *[state offense]*, then your verdict must be not guilty by reason of insanity.

NOTES TO FORM

Practice Notes

The "irresistible impulse" defense is not recognized in Mississippi and the M'Naughten rule is presently the test of sanity in criminal cases in Mississippi. Edmond v. State, 312 So. 2d 702 (Miss. 1975); Harvey v. State, 207 So. 2d 108 (Miss. 1968); Gambrell v. State, 238 Miss. 892, 120 So. 2d 758 (1960).

Research References

West's Key Number Digest
Criminal Law ⚷773

Legal Encyclopedias
C.J.S., Homicide § 369

§ 2:7 Insanity defense—Form of the verdict

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	}	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Your verdict should be written on a separate piece of paper, need not be signed by you, and should be in one of the following forms:

If you find the defendant guilty:

"We, the jury, find the defendant guilty of ______ *[state offense]*."

If you find the defendant not guilty:

"We, the jury, find the defendant not guilty."

If you find the defendant not guilty by reason of insanity:

"We, the jury, find the defendant not guilty by reason of insanity, and we find that the defendant has since been restored to his reason."

[Or:]

"We, the jury, find the defendant not guilty by reason of insanity, and we find that he has not been restored to his reason and is dangerous to the community."

NOTES TO FORM

Practice Notes

These verdicts must be separated as above. "Not Guilty" alone is a general verdict. "Not Guilty by Reason of Insanity" is a special verdict.

This instruction should be given in cases where sanity at the time of the crime is an issue. The instruction should be accompanied by the normal form of the verdict instruction for criminal cases.

Whether the sanity of the accused has in fact been put in issue is the question for the judge.

This instruction should never be modified so as to instruct the jury on the disposition of the defendant following a verdict or acquittal because of insanity. See U.S. v. McCracken, 488 F.2d 406 (5th Cir. 1974).

The jury may never be instructed as to what will be done with the defendant when he is restored to sanity.

Miss. Code Ann. § 99-13-7.

U.S. v. McCracken, 488 F.2d 406 (5th Cir. 1974); Hill v. State, 339 So. 2d 1382 (Miss. 1976); Bean v. State, 297 So. 2d 903 (Miss. 1974); Jones v. State, 288 So. 2d 833 (Miss. 1974); Herron v. State, 287 So. 2d 759 (Miss. 1974); Smith v. State, 220 So. 2d 313 (Miss. 1969); Gambrell v. State, 238 Miss. 892, 120 So. 2d 758 (1960); Eatman v. State, 169 Miss. 295, 153 So. 381 (1934); Smith v. State, 95 Miss. 786, 49 So. 945 (1909).

Research References

West's Key Number Digest

Criminal Law 🔑773

Legal Encyclopedias
C.J.S., Homicide § 369

§ 2:8 Voluntary intoxication no defense

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If you find that the defendant, when sober, was capable of distinguishing right from wrong, and then said defendant voluntarily became intoxicated to the extent that the defendant did not know or understand the action of ________ *[state offense]*, the defendant will be responsible for the offense of ________ *[state offense]*, and such voluntary intoxication will not be a defense to such a crime based upon the negation of defendant's specific intent.

NOTES TO FORM

Practice Notes

Lanier v. State, 533 So. 2d 473 (Miss. 1988); McDaniel v. State, 356 So. 2d 1151 (Miss. 1978).

§ 2:9 Mistake of fact

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Evidence has been presented that the defendant acted in ignorance or on mistake of fact. "Ignorance" or "Mistake of Fact" is a defense to the commission of a crime provided that:

1. The mistaken belief is honestly held; and
2. The belief is of such a nature that the conduct would have been lawful and proper, had the facts been as they were believed to be; and
3. The mistaken belief is not the result of the negligence or fault of the defendant.

If the State has failed to prove from the evidence in this case beyond a reasonable doubt ________ *[and to the exclusion of every other reasonable hypothesis consistent with innocence]* that the defendant ________ *[acted with knowledge of the true facts or was negligent in determining the true facts]*, then you shall find the defendant not guilty.

NOTES TO FORM

Practice Notes

This instruction is applicable only for those instances where the offense involved requires an element of specific intent or actual knowledge by the defendant.

When such an affirmative defense is asserted the instruction setting forth the elements of the crime must be modified to incorporate the affirmative defense.

Scott v. State, 91 Miss. 156, 44 So. 803 (1907).

Research References

Treatises and Practice Aids

1 R. Anderson, Wharton's Criminal Law and Procedure § 157 (1957)
R. Perkins, Criminal Law 939 to 943 (2d ed. 1969)
W. LaFave & Scott, Sr., Criminal Law, 356 to 369 (1972)

West's Key Number Digest

Criminal Law ⚷772(6)

Legal Encyclopedias

Am. Jur. 2d, Criminal Law § 93

§ 2:10 Mistake or ignorance of law—When specific intent or actual knowledge is in issue

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The evidence has raised the issue of ________ *[ignorance or mistake]* on the part of the accused concerning ________ *[state the asserted ignorance or mistake]* in relation to the offense(s) of ________ *[name offense(s)]*.

I advised you earlier that to find the accused guilty of the offense(s) of ________ *[state offense(s)]*, you must find beyond a reasonable doubt that the accused ________ *[had the specific intent to ________ (state specific intent)]*, ________ *[knew that ________ (state asserted offense(s))]*.

If the accused was at the time of the offense(s) ________ *[ignorant of the fact or under the mistaken belief]* that ________ *[state asserted ignorance or mistake]*, then the defendant cannot be found guilty of the offense(s) of ________ *[name offense(s)]*.

The ________ *[ignorance or mistake]*, no matter how unreasonable it might have been, is a defense. In deciding whether the accused was ________ *[ignorant of the fact or under the mistaken belief]* that ________ *[state asserted ignorance or mistake]*, you should consider the ________ *[probability or improbability]* of the evidence presented on the matter. You should consider the accused's ________ *[age or education or experience]* along with the other evidence on this issue including: ________ *[summarize significant evidentiary factors and contentions of both parties bearing on this issue]*.

The burden is on the prosecution to establish the guilt of the accused. If you are convinced beyond a reasonable doubt that at the time of the alleged offense(s) the accused was not ________ *[ignorant of the fact or under the mistaken belief]* that ________ *[state asserted ignorance or mistake]*, the defense of ________ *[ignorance or mistake]* does not exist.

NOTES TO FORM

Practice Notes

"Ignorance" or "Mistake" of Law is a defense where:

The defendant relied upon the validity of a statute later held to be unconstitutional; or

The defendant relied upon the advise of a governmental official who is authorized by the State to give such advise; or

The defendant relied upon a judicial determination which is overruled or modified by a later decision, even in those instances where the first decision is made by a court other than the jurisdiction's court of last resort provided that at the time of the reliance the first decision is the last word in that jurisdiction upon that point; or

The crime involved in the instant case requires a specific intent or other special mental element and ignorance or mistake of law make impossible the existence of such mental element.

The person claiming ignorance or mistake of law must be acting in good faith and with an honest belief that the law was different from what it really is.

No uniform rule is applicable for determining when ignorance or mistake of law will negate the existence of a specific intent or other special mental element necessary to establish the offense. An analysis of the nature of the offense in light of the applicable law is required.

Mississippi State Tax Commission v. Brown, 188 Miss. 483, 193 So. 794, 127 A.L.R. 919 (1940), error overruled, 188 Miss. 483, 195 So. 465, 127 A.L.R. 919 (1940); People v. Ferguson, 134 Cal. App. 41, 24 P.2d 965 (2d Dist. 1933); State v. Longino, 109 Miss. 125, 67 So. 902 (1915); State v. Pearson, 97 N.C. 434, 1 S.E. 914 (1887).

Research References

Law Reviews and Other Periodicals

1 R. Anderson, Wharton's Criminal Law and Procedure, § 162 (1957)
R. Perkins, Criminal Law, 920 to 938 (2d ed. 1969)

West's Key Number Digest

Criminal Law 🔑772(6)

Legal Encyclopedias

Am. Jur. 2d, Criminal Law §§ 94 to 97

§ 2:11 Mistake or ignorance of law—When only general intent is in issue

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The evidence has raised the issue of ________ *[ignorance or mistake]* on the part of the accused concerning ________ *[state the asserted ignorance or mistake]* in relation to the offense(s) of ________ *[summarize evidence and contentions of parties]*.

If the accused ________ *[did not know or mistakenly believed]* ________ *[state asserted ignorance or mistake]* the defendant is not guilty of the offense(s) of ________ *[state offense(s)]* if the defendant's ________ *[ignorance or belief]* was reasonable. To be reasonable, the ________ *[ignorance or belief]* must have been based on information, or lack of it, which would indicate to a reasonable person that ________. ________ *[Additionally, the ________ (ignorance or mistake) cannot be based on a negligent failure to discover the true facts.]*

The burden is on the prosecution to establish the accused's guilt. If you are convinced beyond a reasonable doubt that, at the time of the charged offense(s) the defendant ________ *[knew or believed]* that ________ *[state asserted ignorance or mistake]*, or that the defendant's ________ *[ignorance or mistake]* was unreasonable, then the defense of ________ *[ignorance or mistake]* does not exist.

NOTES TO FORM

Practice Notes

Mississippi State Tax Commission v. Brown, 188 Miss. 483, 193 So. 794, 127 A.L.R. 919 (1940), error overruled, 188 Miss. 483, 195 So. 465, 127 A.L.R. 919 (1940); State v. Longino, 109 Miss. 125, 67 So. 902 (1915); People v. Ferguson, 134 Cal. App. 41, 24 P.2d 965 (2d Dist. 1933); State v. Pearson, 97 N.C. 434, 1 S.E. 914 (1887).

§ 2:12 Mistake or ignorance in drug offenses

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The evidence has raised the issue of ________ *[ignorance or mistake of fact]* in relation to the offense(s) of ________ *[state offense(s)]*. There has been ________ *[evidence or testimony]* tending to show that, at the time of the alleged offense(s), the accused ________ *[did not know that the defendant had ________ (state name of substance) ________ (on the defendant's person or in the defendant's belongings)]*;

[Or:]

________ *[did not know that ________ (state name of substance) was in the defendant's ________ (food or drink)]*;

[Or:]

________ *[was under the mistaken belief that the substance the defendant ________ [possessed or used or sold or transferred) was ________ (state name of substance)]*;

[Or:]

________ *[was unaware that the substance the defendant ________ (possessed or used or sold or transferred) was ________ (state name of substance)]*;

[Or:]

________ *[I advised you earlier that possession must be knowing and conscious.]* If the accused was in fact ________ *[ignorant of the presence of ________ (state name of substance) in the defendant's belongings]*;

[Or:]

________ *[under the mistaken belief that the substance the defendant ________ (possessed or used or ingested) was ________ (state name of substance)]*;

[Or:]

________ *[unaware that the substance the defendant ________ (possessed or ingested or used) was ________ (state name of substance)]*;

then the defendant cannot be found guilty of the offense(s) of ________ *[state offense(s)]*. The accused's actual ________ *[unawareness or erroneous belief]*, no matter how unreasonable is a defense.

In deciding this issue, you should consider the inherent probability or improbability of the evidence presented on this matter. You should consider the accused's ________ *[age or education or experience]*, along with the other evidence in this case including ________ *[summarize significant evidentiary factors and contentions of both parties bearing on this issue]*.

The burden is on the prosecution to establish the guilt of the accused. If you are satisfied beyond a reasonable doubt that the accused was not ________ *[ignorant of the fact or under the mistaken belief]* that ________ *[state asserted ignorance or mistake]*, the defense of ________ *[ignorance or mistake]* does not exist.

NOTES TO FORM

Practice Notes

The accused's belief that the substance possessed, used, sold, etc. was a contraband substance different from the one charged is no defense. An instruction to this effect should be given when there is an issue as to whether the accused had such belief.

§ 2:13 Self-defense

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The court instructs the jury that to make a killing justifiable on the grounds of self-defense, the danger to the defendant must be either actual, present and urgent, or the defendant must have reasonable grounds to believe that the victim intended to kill the defendant or to do him some great bodily harm, and in addition to this, he must have reasonable grounds to believe that there is imminent danger of such act being accomplished. It is for the jury to determine the reasonableness of the grounds upon which the defendant acts. If you, the jury, unanimously find that the defendant acted in self-defense, then it is your sworn duty to return a verdict in favor of the defendant.

NOTES TO FORM

Practice Notes

This instruction is to be used whenever the defendant argues self-defense and sufficient evidence has been presented to so instruct the jury. The last sentence of the instruction was added to amend the instruction to comply with the Mississippi Supreme Court's most recent holding which requires that the jury be told of its duty to acquit if it finds the defendant acted in self-defense.

Flowers v. State, 473 So. 2d 164 (Miss. 1985); Reddix v. State, 731 So. 2d 591 (Miss. 1999).

§ 2:14 Self-defense—Use of deadly force against threat of serious bodily injury

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If you believe from the evidence that the deceased was a much larger and stronger person than the Defendant, and was capable of inflicting great and serious bodily harm upon the Defendant with his/her hands, and that the Defendant had reason to believe and did believe as a man of ordinary reason that he/she was then and there in danger of such harm at the hands of the deceased and used a ________ *[deadly weapon]*, with which he/she fatally ________ *[injured, stabbed, other description]* the deceased, to protect himself/herself from such harm, then the Defendant was justified, and your verdict shall be "not guilty" even though the deceased may not have been armed.

NOTES TO FORM

Practice Notes

Robinson v. State, 858 So. 2d 887 (Miss. Ct. App. 2003) (defendant entitled to self-defense instruction where evidence supported his theory of the case as described in the instruction).

§ 2:15 Imperfect self-defense

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If the defendant killed another person with an actual, genuine belief that the killing was necessary in order to protect *[himself/ herself]* from great bodily harm or death, even though that belief was not reasonable under the circumstances, then the defendant did not have the mental requirement to commit murder. However, the killing may be manslaughter.

If you find from the evidence in this case that:

1. On or about *[date of alleged crime]*, *[name of defendant]* *[description of act]*;
2. Acting with an actual, genuine belief that the killing was necessary in order to protect *[himself/herself]* from great bodily injury or death; but
3. That belief was not reasonable under the circumstances, hen you may find *[name of defendant]* guilty of the lesser included offense of *[specification of lesser included offense]*.

NOTES TO FORM

Practice Notes

Chandler v. State, 946 So. 2d 355, 362–63 (Miss. 2006).

Chapter 3

Definitions

§ 3:1 Accessory after the fact
§ 3:2 Accessory before the fact
§ 3:3 Accomplice
§ 3:4 Aider and abettor
§ 3:5 Breaking—Burglary
§ 3:6 Circumstantial and direct evidence
§ 3:7 Confession
§ 3:8 Conspiracy
§ 3:9 Counterfeit substance
§ 3:10 Culpable negligence
§ 3:11 Curtilage
§ 3:12 Deadly weapon
§ 3:13 Deliberate design
§ 3:14 Deliver or delivery
§ 3:15 Driving under the influence
§ 3:16 Educational property
§ 3:17 Entering—Burglary
§ 3:18 Flight
§ 3:19 Flight by defendant
§ 3:20 Manufacture
§ 3:21 Peace officer
§ 3:22 Possession; actual and constructive
§ 3:23 Precursor
§ 3:24 Production
§ 3:25 Sale, sell, or selling
§ 3:26 Sexual intercourse
§ 3:27 Strangle—Definition
§ 3:28 Use of a deadly weapon—Homicide
§ 3:29 Vulnerable adult

Research References

West's Key Number Digest

Burglary ⊶1 to 16; Counterfeiting ⊶1 to 13; Criminal Law ⊶1 to 1000; Homicide ⊶769, 845, 1056

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 3:1 Accessory after the fact

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

An accessory after the fact is one who conceals, receives, or relieves any felon, or who has aided or assisted any felon, knowing that such person had committed a felony, with the intent to enable such felon to escape or to avoid arrest, trial, conviction or punishment, after the commission of such felony.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-1-5.

An accessory after the fact has been defined by this Court as a person assisting one who has completed the commission of a felony to avoid being apprehended, arrested, convicted, etc. Slaughter v. State, 815 So. 2d 1122, 1134-35 (Miss. 2002) (citations omitted).

§ 3:2 Accessory before the fact

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI		
V.		NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]		

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

An "Accessory Before the Fact" is one who arranges for or counsels or commands another person to commit a felony, but is not himself/herself present when the felony is committed by the other person.

Every person who shall be an accessory to any felony, before the fact, shall be deemed and considered a principal, and shall be indicted and punished as such whether the principal have been previously convicted or not.

NOTES TO FORM

Practice Notes

An accessory before the fact in any felony is a "principal" and may be convicted as such.

Miss. Code Ann. § 97-1-3.

Wilson v. State, 592 So. 2d 993 (Miss. 1991).

State v. Peoples, 481 So. 2d 1069 (Miss. 1986); Huff v. Edwards, 241 So. 2d 654 (Miss. 1970).

Aiding and abetting and acting as an accessory-before-the-fact are two wholly distinct crimes. The primary difference is that if a person is actually or constructively present at the offense, due to his participation, he is an aider and abettor; if not present, he is an accessory-before-the-fact. Dilworth v. State, 909 So. 2d 731, 734 (Miss. 2005) (citations omitted).

Research References

West's Key Number Digest

Criminal Law ⚷792(3)

§ 3:3 Accomplice

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI		
V.		NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]		

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

An "accomplice" is someone who knowingly, voluntarily, and with common intent with the principal offender unites in the commission of a crime.

NOTES TO FORM

Practice Notes

An "aider and abettor" is one that is actually or constructively present at the offense and participated in such offense. Jones v. State, 710 So. 2d 870 (Miss. 1998).

Research References

West's Key Number Digest
Criminal Law ⚷780(3), 800(1)

§ 3:4 Aider and abettor

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

One who willfully, unlawfully, and feloniously aids, abets, assists, or otherwise encourages the commission of a crime is just as guilty under the law as if he or she had committed the whole crime with his or her own hand.

NOTES TO FORM

Practice Notes

Dilworth v. State, 909 So. 2d 731 (Miss. 2005); Simmons v. State, 805 So. 2d 452 (Miss. 2001).

Aiding and abetting and acting as an accessory-before-the-fact are two wholly distinct crimes. The primary difference is that if a person is actually or constructively present at the offense, due to his participation, he is an aider and abettor; if not present, he is an accessory-before-the-fact. Dilworth v. State, 909 So. 2d 731, 734 (Miss. 2005) (citations omitted).

§ 3:5 Breaking—Burglary

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI		
V.		NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]		

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Breaking" is any act of force or threat of force, regardless of how slight, necessary to be used in entering the ______ *[state dwelling, building, vehicle, etc.]*. The turning of a knob, a slight push to further open the door, the rising of a latch—these, and like acts are sufficient.

NOTES TO FORM

Practice Notes

Wright v. State, 512 So. 2d 679 (Miss. 1987); Winston v. State, 479 So. 2d 1093 (Miss. 1985); Smith v. State, 499 So. 2d 750 (Miss. 1986); Newburn v. State, 205 So. 2d 260 (Miss. 1967); Fondren v. State, 253 Miss. 241, 175 So. 2d 628 (1965).

Research References

West's Key Number Digest
Burglary ⚷46(3)

Legal Encyclopedias
C.J.S., Burglary § 66

§ 3:6 Circumstantial and direct evidence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI		
V.		NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]		

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Ladies and Gentlemen of the jury, some of you may have heard the terms "direct evidence" and "circumstantial evidence."

The court instructs the jury that "direct evidence" is direct proof of a fact, such as testimony by a witness about what that witness personally saw, heard, or did. "Direct evidence" is the testimony of someone who claims to have actual knowledge of a fact or who claims to have personal knowledge of the commission of the crime which has been charged. “Direct evidence” is simply evidence which, if you believe it, directly proves a fact. An example is if a witness testified that he saw it raining outside, and you believed him, that would be direct evidence that it was raining.

The court instructs you that “circumstantial evidence” is proof of a fact or facts from which you could conclude, by your reason and common sense, that another fact exists, even though it has not been proven directly. “Circumstantial evidence” is proof of one or more facts from which you could find another fact. “Circumstantial evidence” is simply a chain of circumstances that indirectly proves a fact. An example is if someone walked into the courtroom wearing a raincoat covered with drops of water and carrying a wet umbrella, that would be circumstantial evidence from which you could conclude that it was raining.

The law makes no distinction between the weight to be given either direct or circumstantial evidence. You, as the jury, should decide how much weight to give to any evidence.

NOTES TO FORM

Practice Notes

This instruction may be helpful to the jury to understand the difference between circumstantial and direct evidence. Both types of evidence are entitled to the same amount of weight.

Sherrell v. State, 622 So. 2d 1233 (Miss. 1993); Guilbeau v. State, 502 So. 2d 639 (Miss. 1987).

Research References

Trial Strategy

Model Civil Jury Instructions: Ninth Circuit § 1.05 (1997)
Pattern Criminal Jury Instructions: First Circuit § 3.05 (1998)
Pattern Criminal Jury Instructions: Sixth Circuit § 1.06 (1991)

§ 3:7 Confession

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

You are the sole judges of the facts in this case. Your exclusive province is to determine what weight and credibility will be assigned to the testimony and supporting evidence of each witness in this case. You are required and expected to use your good common sense and sound judgment in considering and weighing the testimony of each witness who has testified in this case.

You may consider the alleged confession in the light of the manner by which you find it was obtained, and give it such weight and credibility as you think it is entitled. Unless you believe from the evidence beyond a reasonable doubt that the alleged confession made by the defendant was truthful, was accurately ________ *[repeated or recorded]*; that the defendant understood what was said; and that such confession was made by defendant of his own free will and was not extorted by threat of harm or promise of benefit, then you must disregard the alleged confession to the extent that these facts tend to discredit it.

NOTES TO FORM

Practice Notes

Moore v. State, 493 So. 2d 1301 (Miss. 1986); Ratliff v. State, 317 So. 2d 403 (Miss. 1975); Bryson v. State, 291 So. 2d 693 (Miss. 1974); Rhone v. State, 254 So. 2d 750 (Miss. 1971); Anderson v. State, 241 So. 2d 677 (Miss. 1970).

The second paragraph of this instruction pertaining to the confession specifically has on one occasion been held to be properly denied by the trial court since it was found to single out a particular piece of evidence, i.e., the confession. Moore v. State, 822 So. 2d 1100, 1107–08 (Miss. Ct. App. 2002).

Research References

West's Key Number Digest
Criminal Law ⚷781(4 to 6)

§ 3:8 Conspiracy

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Conspiracy is an agreement or understanding between two or more people to commit a crime. In establishing a conspiracy, the state is never required to prove in express terms an agreement between the parties to commit a crime, but it is sufficient when the evidence proves beyond a reasonable doubt, from all of the facts and circumstances, including any acts, statements or conduct of the alleged conspirators, that there was a common design or understood purpose between the parties to commit the crime.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-1-1.

Johnson v. State, 792 So. 2d 253, 258-59 (Miss. 2001) (This instruction "fairly and clearly" announces the elements of conspiracy.).

Conspiracy is a combination of two or more persons to accomplish an unlawful purpose or to accomplish a lawful purpose unlawfully, the persons agreeing in order to form the conspiracy. The offense is complete without showing an overt act in the furtherance of the conspiracy. The parties to the conspiracy must understand that they are entering into a common plan and knowingly intend to further its common purpose. Farris v. State, 764 So. 2d 411, 428-29 (Miss. 2000) (citations omitted).

Research References

West's Key Number Digest

Trade Regulation ⚷315

Legal Encyclopedias

C.J.S., Trademarks, Trade Names, and Unfair Competition § 170

§ 3:9 Counterfeit substance

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

A "counterfeit substance" is a controlled substance which bears on itself or on its container or label without authorization, the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-105(g).

Research References

West's Key Number Digest

Trade Regulation ⚷315

Legal Encyclopedias

C.J.S., Trademarks, Trade Names, and Unfair Competition § 170

§ 3:10 Culpable negligence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Culpable negligence is defined as negligence of a degree so gross as to be tantamount to a wanton disregard of, or utter indifference to, the safety of human life.

NOTES TO FORM

Practice Notes

Hurns v. State, 616 So. 2d 313 (Miss. 1993) (holding modified by, Clayton v. State, 652 So. 2d 720 (Miss. 1995)); Smith v. State, 197 Miss. 802, 20 So. 2d 701, 161 A.L.R. 1 (1945). See Miss. Code Ann. §§ 97-3-27; 97-3-33; 97-3-47.

§ 3:11 Curtilage

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Curtilage" is such space as is necessary and convenient, and habitually used for family purposes, including an adequate yard and garden and room for necessary outbuildings ———— *[and may even be large enough for cattle to graze upon].*

NOTES TO FORM

Practice Notes

Boggs v. Eaton, 379 So. 2d 520 (Miss. 1980); Collier v. King, 251 Miss. 607, 612, 170 So. 2d 632, 635 (1965).

Research References

West's Key Number Digest

Criminal Law ⚷800(1)

§ 3:12 Deadly weapon

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

It is a question of fact for you to determine whether the *[description of weapon]* claimed to have been used by *[name of defendant]* was a deadly weapon in the manner claimed to have been *[used/threatened to be used]* in this case.

A deadly weapon may be defined as any object, article or means which, when used as a weapon under the existing circumstances is reasonably capable of producing or likely to produce death or serious bodily harm to a human being upon whom the object, article or means is used.

NOTES TO FORM

Practice Notes

The question of whether the weapon is deadly is one for the jury. Shanklin v. State, 290 So. 2d 625 (Miss. 1974); Batteast v. State, 215 Miss. 337, 60 So. 2d 814 (1952).

Miss. Code Ann. § 97-3-7.

Duckworth v. State, 477 So. 2d 935 (Miss. 1985); Batteast v. State, 215 Miss. 337, 60 So. 2d 814 (1952).

Research References

West's Key Number Digest

Assault and Battery ⚷96(8)

Legal Encyclopedias
C.J.S., Assault and Battery § 126

§ 3:13 Deliberate design

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The court instructs the jury that "deliberate design" as it is used in these instructions, means an intent to kill without authority of law, and not being legally justifiable, or legally excusable. "Deliberate" always indicates full awareness of what one is doing, and generally implies careful and unhurried consideration of the consequences. "Design" means to calculate, plan, or contemplate. "Deliberate design" to kill a person may be formed very quickly, and perhaps only moments before the act of killing the person. However, a "deliberate design" can not be formed at the very moment of the fatal act.

NOTES TO FORM

Practice Notes

This instruction should be used when deliberate design is an element of the offense charged. Deliberate design is also synonymous with malice aforethought.

The Mississippi Supreme Court has repeatedly reversed cases where the instruction on deliberate design stated that deliberate design could be formed at the very instant of the fatal act.

Windham v. State, 520 So. 2d 123 (Miss. 1987); Gossett v. State, 660 So. 2d 1285 (Miss. 1995); Duvall v. State, 634 So. 2d 524 (Miss. 1994).

§ 3:14 Deliver or delivery

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

To deliver or make a delivery of a controlled substance means the actual, constructive, or attempted transfer of a controlled substance from one person to another, whether or not there is an agency relationship.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-105(h).
Boone v. State, 291 So. 2d 182 (Miss. 1974).

§ 3:15 Driving under the influence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Driving under the influence is commonly understood to mean driving in a state of intoxication that lessens a person's normal ability for clarity and control.

NOTES TO FORM

Practice Notes

Leuer v. City of Flowood, 744 So. 2d 266, 269 (Miss. 1999).

§ 3:16 Educational property

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI		
V.	}	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]		

Educational property means any public or private school building or bus, public or private school campus, grounds, recreational area, athletic field, or other property owned, used or operated by any local school board, school, college or university board of trustees, or directors for the administration of any public or private educational institution or during a school-related activity, and shall include the facility and property of the Oakley Youth Development Center, operated by the Department of Human Services.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-37-17(1)(a).

§ 3:17 Entering—Burglary

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI		
V.	}	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]		

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The word "entering" as used in the burglary instructions means the act of making one's way into a ________ *[state dwelling, structure, vehicle, etc.]*. The least entry with any part of the body or with any instrument is sufficient to constitute an entering.

NOTES TO FORM

Research References

West's Key Number Digest
Burglary 🔑46(3)

Legal Encyclopedias
C.J.S., Burglary §§ 16, 66

§ 3:18 Flight

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Flight" is the evading of the course of justice by voluntarily withdrawing one's self in order to avoid arrest, detention, or the institution or continuance of criminal proceedings, regardless of whether one leaves the jurisdiction.

NOTES TO FORM

Practice Notes

This definition is to be used in conjunction with Mississippi Criminal Jury Instruction § 3:19 (Flight by defendant).

Research References

West's Key Number Digest
Criminal Law ⚷800(5)

§ 3:19 Flight by defendant

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Flight" is a circumstance from which guilty knowledge and fear may be inferred. If you believe from the evidence in this case beyond a reasonable doubt that the defendant, ________, did flee or go into hiding, such flight or hiding is to be considered in connection with all other evidence in this case. You will determine from all the facts whether such flight or hiding was from a conscious sense of guilt or whether it was caused by other things and give it such weight as you think it is entitled to in determining the guilt or innocence of the defendant, ________.

NOTES TO FORM

Practice Notes

Gilbert v. State, 934 So. 2d 330, 341 (Miss. Ct. App. 2006) (quoting model jury instruction with approval and affirming use of flight jury instruction). See Shaw v. State, 915 So. 2d 442, 447 (Miss. 2005) ("We have consistently held that a defendant's flight is admissible as evidence of consciousness of guilt. However, a flight instruction is appropriate only where the flight is unexplained and somehow probative of guilt or guilty knowledge. Therefore, evidence of flight is inadmissible where there is an independent reason for the flight. Also, it is well settled that evidence of flight or escape is admissible as an exception to M.R.E. 404(b) in order to show guilty knowledge. While evidence of flight is admissible under Rule 404(b), it must be filtered through M.R.E. 403.").

Research References

West's Key Number Digest
Criminal Law ⚷778(11)

§ 3:20 Manufacture

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term "manufacture" does not include the preparation, compounding, packaging or labeling of a controlled substance in conformity with applicable state and local law:

(i) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(ii) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to research, teaching or chemical analysis and not for sale.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-105(q).

Research References

West's Key Number Digest
Health ⚷982

Legal Encyclopedias
C.J.S., Drugs and Narcotics § 221

§ 3:21 Peace officer

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

The term peace officer means any state or federal law enforcement officer, including, but not limited to, a federal park ranger, the sheriff of or police officer of a city or town, a conservation officer, a parole officer, a judge, senior status judge, special judge, district attorney, legal assistant to a district attorney, county prosecuting attorney or any other court official, an agent of the Alcoholic Beverage Control Division of the Department of Revenue, an agent of the Bureau of Narcotics, personnel of the Mississippi Highway Patrol, and the employees of the Department of Corrections who are designated as peace officers by the Commissioner of Corrections, and the superintendent and his deputies, guards, officers and other employees of the Mississippi State Penitentiary.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(2)(a). This instruction is to be used with Mississippi Criminal Jury Instruction § 8:6.

§ 3:22 Possession; actual and constructive

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Possession, as that term is used in this case, may be actual or constructive. A person has actual possession when he or she knowingly has direct, immediate, and exclusive physical control over the thing or object. A person has constructive possession when he or she lacks actual possession of the thing or object but knowingly has both the power and the intention, at a given time, to exercise control or dominion over the thing or object, either directly or through another person.

NOTES TO FORM

Practice Notes

See Watkins v. State, 101 So. 3d 628, 635 (Miss. 2012).

Floyd v. State, 155 So. 3d 883, 887–88 (Miss. Ct. App. 2014), cert. denied, (Jan. 22, 2015) and cert. denied, 154 So. 3d 33 (Miss. 2015) (When refusing instruction D-5, the trial court noted that instruction S-8 was identical to the model jury instruction on actual and constructive possession . . . We find no error by the trial court in refusing instruction D-5 for the following reasons: instruction S-8 was identical to the model jury instruction; instruction S-8 used similar language to section 41-29-139(a)(1); and instruction D-5 was fairly covered in instruction S-8.).

For constructive possession there must be sufficient facts to warrant a finding that the defendant was aware of the presence of the particular substance and was intentionally and consciously in possession of it. It need not be actual or physical possession. Constructive possession may be shown by establishing that the drug involved was subject to his or her dominion or control. Proximity is usually an essential element, but by itself is not adequate in the absence of other incriminating circumstances. When the defendant is not the owner of the premises the State must show additional incriminating circumstances to justify a finding of constructive possession. The same is true when a defendant is not in exclusive control of the premises. Curry v. State, 249 So. 2d 414 (Miss. 1971); Boches v. State, 506 So. 2d 254 (Miss. 1987); Martin v. State, 804 So. 2d 967 (Miss. 2001).

Constructive possession may also be an issue in possession of firearm cases in addition to controlled substance cases. Cook v. State, 825 So. 2d 678 (Miss. Ct. App. 2002); Evans v. State, 802 So. 2d 137 (Miss. Ct. App. 2001).

Research References

Treatises and Practice Aids

Illinois Pattern Jury Instructions—Criminal § 4.16

Trial Strategy
Pattern Criminal Jury Instructions: Fifth Circuit § 1.31

§ 3:23 Precursor

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

A "precursor drug or chemical" is a drug or chemical that, in addition to legitimate uses, may be used in manufacturing a controlled substance.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-313(1)(b).

§ 3:24 Production

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-105(z).

Research References

West's Key Number Digest
Health ⚷982

Legal Encyclopedias
C.J.S., Drugs and Narcotics § 221

§ 3:25 Sale, sell, or selling

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Sale, sell or selling" means the actual, constructive or attempted transfer or delivery of a controlled substance for remuneration, whether in money or other consideration.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-105(aa).
Boone v. State, 291 So. 2d 182 (Miss. 1974).

Research References

West's Key Number Digest
Health ⚷982

Legal Encyclopedias
C.J.S., Drugs and Narcotics § 223

§ 3:26 Sexual intercourse

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Sexual intercourse means a joining of the sexual organs of a male and female human being in which the penis of the male is inserted into the vagina of the female or the penetration of the sexual organs of a male or female human being in which the penis or an object is inserted into the genitals, anus or perineum of a male or female.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-65(6). This definition applies to crimes arising under Miss. Code Ann. § 97-3-65 and should be used in conjunction with the applicable jury instructions.

See Mississippi Criminal Jury Instructions §§ 8:30, 8:31.

§ 3:27 Strangle—Definition

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. — NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Strangle" means to restrict the flow of oxygen or blood by intentionally applying pressure on the neck, throat or chest of another person by any means or to intentionally block the nose or mouth of another person by any means.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(9)(a).

§ 3:28 Use of a deadly weapon—Homicide

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. — NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If a ________ *[wound or death]* is inflicted upon a person with a deadly weapon in a manner calculated to ________ *[destroy life or inflict great bodily harm]*, then ________ *[malice or intent or purpose to kill]* may be inferred from the use of the weapon.

NOTES TO FORM

Practice Notes

This instruction embodies the presumption of malice or intent to kill from the use of a deadly weapon. This instruction should not be given where there is evidence or fact to support justification or necessity for the killing. For an excellent discussion of the use of this instruction see the majority and dissenting opinions in Hendrieth v. State, 230 So. 2d 217 (Miss. 1970).

Malice or intent may be proved or inferred from use of a deadly weapon; in order to defeat that inference, evidence must be offered to change the character of the killing. Fairchild v. State, 459 So. 2d 793 (Miss. 1984). Unexplained killing of one person by another is presumed to be malicious, and therefore, murder; but, this presumption has no application where there are eyewitnesses to the slaying other than the accused, who relate the facts and circumstances surrounding the killing. Blanks v. State, 547 So. 2d 29 (Miss. 1989).

An instruction defining the term "deadly weapon" should accompany this instruction since the question of whether it was a deadly weapon is one for the jury. Miss. Code Ann. § 97-3-7; Shanklin v. State, 290 So. 2d 625 (Miss. 1974); Batteast v. State, 215 Miss. 337, 60 So. 2d 814 (1952).

See Miss. Code Ann. § 97-3-35.

Nicolaou v. State, 534 So. 2d 168 (Miss. 1988); Hendrieth v. State, 230 So. 2d 217 (Miss. 1970); Cazalas v. State, 227 Miss. 546, 86 So. 2d 497 (1956); Rowland v. State, 182 Miss. 886, 183 So. 527 (1938).

Research References

West's Key Number Digest
Homicide ⚷1390

Legal Encyclopedias
C.J.S., Homicide § 357

§ 3:29 Vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

A vulnerable adult is a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 43-47-5(q).

Chapter 4

Controlled Substances

§ 4:1 Sale of controlled substance to a minor
§ 4:2 Possession of controlled substance with intent to distribute to a minor
§ 4:3 Sale of controlled substance on or near school ground
§ 4:4 Possession of controlled substance with intent to distribute on or near school ground
§ 4:5 Possession of Schedule I or II controlled substance
§ 4:6 Sale of Schedule I or II controlled substance
§ 4:7 Possession of Schedule I or II controlled substance with intent to distribute
§ 4:8 Possession of Schedule III, IV, or V controlled substance
§ 4:9 Sale of Schedule III, IV, or V controlled substance
§ 4:10 Possession of Schedule III, IV, or V controlled substance with intent to distribute
§ 4:11 Possession of marijuana or synthetic cannabinoids
§ 4:12 Sale of marijuana or synthetic cannabinoids
§ 4:13 Possession of marijuana or synthetic cannabinoids with intent to distribute
§ 4:14 Possession of two or more precursors with intent to manufacture a controlled substance
§ 4:15 Possession of two or more precursors where circumstances indicate an intent to manufacture a controlled substance
§ 4:16 Constructive possession of two or more precursors with intent to manufacture a controlled substance
§ 4:17 Constructive possession of two or more precursors where circumstances indicate an intent to manufacture a controlled substance

Research References

West's Key Number Digest

Controlled Substances 🔑1 to 100(2); Criminal Law 🔑31 to 82, 304 to 572, 769 to 868

Treatises and Practice Aids

Encyclopedia of Mississippi Law, Ch 13
Mississippi Civil Procedure, Ch 12, 14, 14A
Mississippi Trial Handbook 3rd, Ch 34

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923

Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 4:1 Sale of controlled substance to a minor

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI		
V.	}	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]		

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with *[sale of/barter of/distribution of/dispensing] [name of controlled substance]* to a minor.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant] [description of elements of offense under § 41-29-139]*; and
3. At the time, *[name of recipient]* was under the age of 21 years; and
4. At the time, *[name of defendant]* was over the age of 21 years;then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 41-29-139 and 41-29-145.

§ 4:2 Possession of controlled substance with intent to distribute to a minor

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged with possession of *[name of controlled substance]* with intent to *[sale of/barter of/distribution of/dispensing]* *[name of controlled substance]* to a minor.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant] [description of elements of offense under § 41-29-139]*; and
3. At the time, the other person/persons was/were under the age of 21 years; and
4. At the time, *[name of defendant]* was over the age of 21 years;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 41-29-139 and 41-29-145.

§ 4:3 Sale of controlled substance on or near school ground

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with *[sale of/barter of/transfer of/distribution of/dispensing] [name of controlled substance]* on or near a school ground.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant] [description of elements of offense under § 41-29-139]*; and
3. At the time, *[name of defendant]* was *[in a building or outbuilding which was/on a building or outbuilding which was/within 1500 feet of a building or outbuilding which was/within 1000 feet of the real property comprising]*;
4. *[All of/Part of] [name of school]*; and
5. That school was a *[description of school]*;then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 41-29-139 and 41-29-142.

§ 4:4 Possession of controlled substance with intent to distribute on or near school ground

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]

NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with possession of *[name of controlled substance]* with intent to *[sale of/barter of/distribution of/dispensing] [name of controlled substance]* on or near a school ground.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant] [description of elements of offense under § 41-29-139]*; and

3. At the time, *[name of defendant]* was *[in a building or outbuilding which was; on a building or outbuilding which was; within 1500 feet of a building or outbuilding which was; or within 1000 feet of the real property comprising]*;

4. *[All of/Part of] [name of school]*; and

5. That school was a *[type of school]*;then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 41-29-139 and 41-29-142.

§ 4:5 Possession of Schedule I or II controlled substance

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with possession of *[name of Schedule I or II controlled substance].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* knowingly or intentionally and without authority of law possessed;

3. *[Name of controlled substance]* in an amount of *[specify weight or dosage units pursuant to § 41-29-139]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-139.

§ 4:6 Sale of Schedule I or II controlled substance

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged with *[sale of or barter of or transfer of or manufacture of or distribution of or dispensing] [name of controlled substance].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally and without authority of law *[sold / bartered / transferred / manufactured / distributed / dispensed]*;
3. *[Name of controlled substance]* in an amount of *[specify weight or dosage units pursuant to § 41-29-139]*;
4. To *[Name of recipient]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-139.

§ 4:7 Possession of Schedule I or II controlled substance with intent to distribute

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with possession of *[Name of controlled substance]* with intent to *[sell or barter or transfer or manufacture or distribute or disperse].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally and without authority of law possessed with intent to *[sell/barter/transfer/manufacture/distribute/dispense]*;
3. *[Name of controlled substance]* in an amount of *[specify weight or dosage units pursuant to § 41-29-139]*;
4. To another person or persons;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-139.

§ 4:8 Possession of Schedule III, IV, or V controlled substance

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with possession of *[name of Schedule III, IV or V controlled substance].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally and without authority of law possessed;
3. *[Name of controlled substance]* in an amount of *[specify weight or dosage units pursuant to § 41-29-139]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-139.

§ 4:9 Sale of Schedule III, IV, or V controlled substance

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged with *[sale of or barter of or transfer of or manufacture of or distribution of or dispensing] [name of Schedule III, IV, or V controlled substance]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally and without authority of law *[sold / bartered / transferred / manufactured / distributed / dispensed]*;
3. *[Name of controlled substance]* in an amount of *[specify weight or dosage units pursuant to § 41-29-139]*;
4. To *[Name of recipient]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-139.

§ 4:10 Possession of Schedule III, IV, or V controlled substance with intent to distribute

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with possession of *[name of Schedule III, IV, or V controlled substance]* with intent to *[sold / bartered / transferred / manufactured / distributed / dispensed].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally and without authority of law possessed with intent to *[sell / barter / transfer / manufacture / distribute / dispense]*;
3. *[Name of controlled substance]* in an amount of *[specify weight or dosage units pursuant to § 41-29-139]*;
4. To another person or persons;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-139.

§ 4:11 Possession of marijuana or synthetic cannabinoids

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in number *[number of count]* with possession of marijuana or synthetic cannabinoids.

If you find from the evidence in this case beyond a reasonable doubt that

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally and without authority of law possessed;
3. Marijuana or synthetic cannabinoids;
4. Which weighed *[specify weight pursuant to § 41-29-139]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-139.

§ 4:12 Sale of marijuana or synthetic cannabinoids

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged with the *[sale/barter/transfer/manufacture/distribution/dispensing]* of marijuana or synthetic cannabinoids.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally and without authority of law *[sold/bartered/transferred/manufactured/distributed/dispensed]*;
3. Marijuana or synthetic cannabinoids;
4. Which weighed *[specify weight pursuant to § 41-29-139]*;
5. To *[name of recipient]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-139.

§ 4:13 Possession of marijuana or synthetic cannabinoids with intent to distribute

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with possession of marijuana or synthetic cannabinoids, with intent to *[sell / barter / transfer / distribute / dispense].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally and without authority of law possessed;
3. Marijuana or synthetic cannabinoids;
4. Which weighed *[specify weight pursuant to § 41-29-139]*; and
5. At the time, *[name of defendant]* intended to *[sell or barter or transfer or distribute or dispense]* that marijuana to another person or persons;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-139.

§ 4:14 Possession of two or more precursors with intent to manufacture a controlled substance

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with possession of two (2) or more precursor drugs or chemicals with intent to unlawfully manufacture a controlled substance.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally *[purchased / possessed / transferred / manufactured / attempted to manufacture or distribute]*;
3. *[List of two or more precursors]* being two (2) or more precursor drugs or chemicals;
4. With the intent to unlawfully manufacture a controlled substance, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-313(1)(a)(i).

See Mississippi Criminal Jury Instruction § 3:23.

§ 4:15 Possession of two or more precursors where circumstances indicate an intent to manufacture a controlled substance

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]*

with possession of two (2) or more precursor drugs or chemicals knowing or under circumstances where one reasonably should know that the two (2) or more precursors would be used to unlawfully manufacture a controlled substance.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally *[purchased / possessed / transferred / manufactured / attempted to manufacture or distribute]*;
3. *[List of two or more precursors]* being two (2) or more precursor drugs or chemicals;
4. Knowing, or under circumstances where one reasonably should know, that the *[list of two or more precursors]* would be used to unlawfully manufacture a controlled substance, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-313(1)(a)(ii).
See Mississippi Criminal Jury Instruction § 3:23.

§ 4:16 Constructive possession of two or more precursors with intent to manufacture a controlled substance

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with possession of two (2) or more precursor drugs or chemicals with intent to unlawfully manufacture a controlled substance.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally *[purchased /*

possessed / transferred / manufactured / attempted to manufacture or distribute];

3. *[List of two or more precursors]* being two (2) or more precursor drugs or chemicals;
4. With the intent to unlawfully manufacture a controlled substance, and
5. That the defendant was aware of the presence and character of the precursors which were subject to his/her dominion and control, although not in his/her actual physical possession, and
6. That the defendant was intentionally and consciously in possession of the said precursors, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-313(1)(a)(i). See Ginn v. State, 860 So. 2d 675 (Miss. 2003) (constructive possession of precursors jury instruction).

See Mississippi Criminal Jury Instruction § 3:23.

§ 4:17 Constructive possession of two or more precursors where circumstances indicate an intent to manufacture a controlled substance

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with possession of two (2) or more precursor drugs or chemicals knowing or under circumstances where one reasonably should know that the two (2) or more precursors would be used to unlawfully manufacture a controlled substance.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* knowingly or intentionally *[purchased /*

possessed / transferred / manufactured / attempted to manufacture or distribute];

3. *[List of two or more precursors]* being two (2) or more precursor drugs or chemicals;

4. Knowing, or under circumstances where one reasonably should know, that the *[list of two or more precursors]* would be used to unlawfully manufacture a controlled substance, and

5. That the defendant was aware of the presence and character of the precursors which were subject to *[his / her]* dominion and control, although not in his/her actual physical possession, and

6. That the defendant was intentionally and consciously in possession of the said precursors, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 41-29-313(1)(a)(ii). See Ginn v. State, 860 So. 2d 675 (Miss. 2003) (constructive possession of precursors jury instruction).

See Mississippi Criminal Jury Instruction § 3:23.

Chapter 5

Offenses Involving Motor Vehicles

§ 5:1 Driving under the influence
§ 5:2 —Second offense
§ 5:3 —Third offense
§ 5:4 —Definition
§ 5:5 —Chemical test results available—Person above the legal age to purchase alcoholic beverages
§ 5:6 — —Person below the legal age to purchase alcoholic beverages
§ 5:7 —Causing death or injury to another
§ 5:8 Operating a commercial motor vehicle under the influence—Chemical test results available
§ 5:9 Violation of motor vehicle or traffic regulations

Research References

West's Key Number Digest

Automobiles 🔑1 to 20, 315 to 361; Criminal Law 🔑31 to 82, 304 to 572, 769 to 868

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 5:1 Driving under the influence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of driving or operating a vehicle while under the influence of *[description of substance].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of incident]*, in *[name of county]*;
2. *[Name of defendant]* drove or operated *[a/an] [description of vehicle]*; and
3. When *[name of defendant]* drove or operated the *[description of vehicle]*, *[name of defendant]* was unlawfully under the influence of *[description of substance]*, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 63-11-30.

§ 5:2 Driving under the influence—Second offense

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with a second offense of driving or operating a vehicle while under the influence of *[description of substance].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of incident]*, in *[name of county]*;

2. *[Name of defendant]* drove or operated *[a/an] [description of vehicle]*; and
3. When *[name of defendant]* drove or operated the *[description of vehicle]*, *[name of defendant]* was unlawfully under the influence of *[description of substance]*; and
4. That *[name of defendant]* was previously convicted of driving under the influence of *[description of substance]* in *[name of court]* on *[date of conviction]*; and
5. Defendant's previous conviction for driving under the influence of *[description of substance]* occurred within five years of *[date of incident]*, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 63-11-30.

§ 5:3 Driving under the influence—Third offense

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with a third offense of driving or operating a vehicle while under the influence of *[description of substance]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of incident]*, in *[name of county]*;
2. *[Name of defendant]* drove or operated *[a/an] [description of vehicle]*; and
3. When *[name of defendant]* drove or operated the *[description of vehicle]*, *[name of defendant]* was unlawfully under the influence of *[description of substance]*; and
4. That *[name of defendant]* was previously convicted of driving under the influence of *[description of substance]* in *[name of court]* on *[date of conviction]*; and

5. Defendant's previous convictions for driving under the influence of *[description of substance]* occurred within five years of *[date of incident]*, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 63-11-30.

§ 5:4 Driving under the influence—Definition

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Driving under the influence is commonly understood to mean driving in a state of intoxication that lessens a person's normal ability for clarity and control.

NOTES TO FORM

Practice Notes

Leuer v. City of Flowood, 744 So. 2d 266, 269 (Miss. 1999).

§ 5:5 Driving under the influence—Chemical test results available—Person above the legal age to purchase alcoholic beverages

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of driving or operating a vehicle while under the influence of an intoxicating liquor.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of incident]*, in *[name of county]*;
2. *[Name of defendant]* drove or operated *[a/an] [description of vehicle]*; and
3. When *[name of defendant]* drove or operated the *[description of vehicle]*, *[name of defendant]* unlawfully had an alcohol concentration in the defendant's blood of eight one-hundredths percent (.08%) or more as shown by chemical analysis of the defendant's breath, blood, or urine; and
4. That *[name of defendant]* was above the legal age to purchase alcoholic beverages under state law, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 63-11-30.

§ 5:6 Driving under the influence—Chemical test results available—Person below the legal age to purchase alcoholic beverages

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of driving or operating a vehicle while under the influence of an intoxicating liquor.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of incident]*, in *[name of county]*;
2. *[Name of defendant]* drove or operated *[a/an] [description of vehicle]*; and

3. When *[name of defendant]* drove or operated the *[description of vehicle]*, *[name of defendant]* unlawfully had an alcohol concentration in the defendant's blood of two one-hundredths percent (.02%) or more, but less than eight one-hundredths percent (.08%), as shown by chemical analysis of the defendant's breath, blood, or urine; and

4. That *[name of defendant]* was below the legal age to purchase alcoholic beverages under state law, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 63-11-30.

§ 5:7 Driving under the influence—Causing death or injury to another

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of causing *[death / mutilation / disfigurement / permanent disability / destruction of a limb or organ / [description of injury]]* to another person while driving or operating a vehicle while under the influence of *[description of substance]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of incident]*, in *[name of county]*;

2. *[Name of defendant]* drove or operated *[a / an] [description of vehicle]*; and

[EITHER:]

3. When *[name of defendant]* drove or operated the *[description of vehicle]*, *[name of defendant]* was unlawfully under the influence of *[description of substance]*;

[OR:]

3. When *[name of defendant]* drove or operated the *[description of vehicle]*, *[name of defendant]* unlawfully had an alcohol concentration in the defendant's blood of eight one-hundredths percent (.08%) or more as shown by chemical analysis of the defendant's breath, blood, or urine and *[name of defendant]* was above the legal age to purchase alcoholic beverages under state law;

[END OF CHOICES]

4. While *[name of defendant]* drove or operated the *[description of vehicle]* under the unlawful influence of *[description of substance]*, *[name of defendant]* negligently caused *[death / mutilation / disfigurement / permanent disability / destruction of a limb or organ / [description of injury]]* to *[name of victim]* by *[description of actions]*, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 63-11-30.

§ 5:8 Operating a commercial motor vehicle under the influence—Chemical test results available

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]
NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of driving or operating a commercial vehicle while under the influence of an intoxicating liquor.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of incident]*, in *[name of county]*;
2. *[Name of defendant]* drove or operated *[a / an] [description of vehicle]*, being a commercial vehicle; and
3. When *[name of defendant]* drove or operated the *[descrip-*

tion of vehicle], *[name of defendant]* unlawfully had an alcohol concentration in the defendant's blood of four one-hundredths percent (.04%) or more as shown by chemical analysis of the defendant's breath, blood, or urine, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 63-11-30.

§ 5:9 Violation of motor vehicle or traffic regulations

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of *[specify offense]* in violation of *[citation of statute]* of the Mississippi Code.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. While operating a motor vehicle *[description of location]*;
3. *[Name of defendant]* unlawfully failed to comply with *[citation of statute]* which mandates *[statement of law]*;
4. By *[description of acts]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

A violation for a motor vehicle and traffic offense will be held to be a misdemeanor unless such violation is by such chapters or other law of this state declared to be a felony. Miss. Code Ann. §§ 63-1-1 to 63-7-311, 63-9-11.

Chapter 6

Conspiracy, Accessories, and Attempts

§ 6:1 Conspiracy
§ 6:2 Accessory before the fact
§ 6:3 Accessory after the fact
§ 6:4 General attempt instruction
§ 6:5 Attempted murder instruction
§ 6:6 Aider and abettor

Research References

West's Key Number Digest

Conspiracy 🔑23 to 48.3, 51; Criminal Law 🔑31 to 82, 304 to 572, 769 to 868

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

Forms

Am. Jur. Pleading and Practice Forms, Conspiracy §§ 8 to 37

> **KeyCite®:** Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 6:1 Conspiracy

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V.   NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in with the offense of conspiracy.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[name of defendant]* unlawfully conspired with *[names of co-conspirators]*
    - a. To commit the crime of *[state the crime and list the elements]* by *[list the actions of the conspiracy]*; or
    - b. Falsely and maliciously to indict *[Victim's name]* for the crime of *[state the crime]*, or have *[Victim's name]* arrested for the crime of *[state the crime]*; or
    - c. Falsely to institute or maintain the cause of action of *[state the action]* against *[state against whom]*; or
    - d. To cheat and defraud *[Victim's name]* out of *[list the property]* by *[list the means to accomplish the conspiracy]*, which are themselves criminal; or
    - e. To prevent *[Victim's name]* from exercising a lawful trade or calling; or
    - f. To commit any act *[list action(s) of the conspiracy]* which is/are injurious to the public health, to public morals, trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws; or
    - g. To overthrow or violate the laws of this state through force, violence, threats, intimidation, or otherwise by *[list the action(s) of the conspiracy]*; or
    - h. To accomplish *[list the action(s) of the conspiracy]*, which is/are an unlawful purpose, or a lawful purpose by any unlawful means;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-1-1.

Please note that only the applicable subsection under element 2 should be used when drafting the jury instruction.

Conspiracy is a combination of two or more persons to accomplish an unlawful purpose or to accomplish a lawful purpose unlawfully, the persons agreeing in order to form the conspiracy. The offense is complete without showing an overt act in the furtherance of the conspiracy. The parties to the conspiracy must understand that they are entering into a common plan and knowingly intend to further its common purpose. Farris v. State, 764 So. 2d 411, 428-29 (Miss. 2000) (citations omitted).

See Mississippi Criminal Jury Instruction § 3:8.

§ 6:2 Accessory before the fact

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of being an accessory before the fact.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[name of defendant]* unlawfully arranged for, counseled, aided or commanded *[name of person]* to *[description of felony]* by *[description of facts]*; and
3. *[Name of person]* did in fact *[description of facts showing the commission of the crime]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-1-3.

For a jury to convict as an accessory before the fact there must be evidence that the defendant procures, counsels, or commands another to commit a felony for him, but is not himself present, actually or constructively, when the felony is committed. The jury is not permitted to simply assume that the felony was in fact committed. The jury must find beyond a reasonable doubt that the crime was committed and that the defendant counseled or commanded another to commit the crime. Wilson v. State, 592 So. 2d 993, 997 (Miss. 1991) (citations omitted).

§ 6:3 Accessory after the fact

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

[Name of defendant] has been charged in count *[number of count]* with the offense of being an accessory after the fact.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of incident]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully concealed, received, relieved, aided or assisted *[name of principal felon]* by *[description of actions]*; and
3. *[Name of defendant]* knew that *[name of principal felon]* had committed *[description of crime]*, a *[violent/nonviolent]* crime; and
4. *[Name of defendant]* intended to enable *[name of principal felon]* to escape or to avoid arrest, trial, conviction or punishment, after *[name of principal felon]* had committed *[description of crime]*, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty in count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-1-5. See Slaughter v. State, 815 So. 2d 1122, 1134 (Miss. 2002).

§ 6:4 General attempt instruction

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of attempted *[state crime].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[name of defendant]* intended to commit *[statement of crime]*;
3. By unlawfully committing the overt act of *[state act]*, a direct ineffectual action beyond mere preparation or planning that went toward the commission of the crime; but
4. *[Defendant's name] [failed to actually consummate the crime or was prevented from consummating the crime]*, and therefore did not meet the elements of *[state elements]*, of the completed crime;

then you shall find the defendant guilty of attempted *[state crime].*

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty in count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 97-1-7 to 97-1-9.

McGowan v. State, 541 So. 2d 1027 (Miss. 1989); Edwards v. State, 500 So. 2d 967 (Miss. 1986).

§ 6:5 Attempted murder instruction

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of attempted murder.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* intended to commit the murder of *[name of victim]*;

3. By unlawfully committing the overt act of *[statement of act]*, a direct ineffectual action beyond mere preparation or planning that went towards the commission of murder; but

4. *[Name of defendant] [failed to actually kill/was prevented from killing] [name of victim]*, and therefore did not meet the elements of murder,

then you shall find the defendant guilty of attempted murder.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty in count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-1-7(2).

§ 6:6 Aider and abettor

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

The guilt of a defendant in a criminal case may be established without proof that the defendant personally did every act constituting the offense alleged. The law recognizes that, ordinarily, anything a person can do for himself may also be accomplished by that person through the direction of another person as his or her agent, or by acting in concert with, or under the direction of, another person or persons in a joint effort or enterprise.

If another person is acting under the direction of the defendant or if the defendant joins another person and performs acts with the intent to commit a crime, then the law holds the defendant responsible for the acts and conduct of such other persons just as though the defendant had committed the acts or engaged in such conduct.

Before any defendant may be held criminally responsible for the acts of others, it is necessary that the accused deliberately associate himself in some way with the crime and participate in it with the intent to bring about the crime.

Of course, mere presence at the scene of a crime and knowledge that a crime is being committed are not sufficient to establish that a defendant either directed or aided and abetted the crime unless you find beyond a reasonable doubt that the defendant was a participant and not merely a knowing spectator.

In other words, you may not find any defendant guilty unless you find beyond a reasonable doubt that every element of the offense as defined in these instructions was committed by some person or persons, and that the defendant voluntarily participated in its commission with the intent to violate the law.

NOTES TO FORM

Practice Notes

In Milano v. State, 790 So. 2d 179 (Miss. 2001), the Mississippi Supreme Court officially adopted this version of the Fifth Circuit's Pattern Jury Instructions for aiding and abetting.

Research References

Trial Strategy

Pattern Jury Instructions, Criminal Cases, Instruction 2.06 (1997 Edition) (prepared by Committee on Pattern Jury Instructions District Judges Association, Fifth Circuit)

Chapter 7

Assault

§ 7:1 Simple assault—Attempt to cause bodily injury to another
§ 7:2 — —Upon a law enforcement officer or other official
§ 7:3 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:4 —Purposely, knowingly causes bodily injury to another
§ 7:5 — —Upon a law enforcement officer or other official
§ 7:6 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:7 —Recklessly causes bodily injury to another
§ 7:8 — —Upon a law enforcement officer or other official
§ 7:9 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:10 —Negligently causes bodily injury to another with a deadly weapon
§ 7:11 — —Upon a law enforcement officer or other official
§ 7:12 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:13 —Negligently causes bodily injury to another using other means likely to produce death or serious bodily harm
§ 7:14 — —Upon a law enforcement officer or other official
§ 7:15 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:16 —Attempts by physical menace to put another in fear of imminent serious bodily harm
§ 7:17 — —Upon a law enforcement officer or other official
§ 7:18 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:19 Aggravated assault—Attempts to cause serious bodily injury to another
§ 7:20 — —Upon a law enforcement officer or other official
§ 7:21 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:22 —Purposely, knowingly causes serious bodily injury
§ 7:23 —Purposely, knowingly causes serious bodily injury to another—Upon a law enforcement officer or other official
§ 7:24 — —Upon a person 65 years of age or older or a vulnerable adult

§ 7:25 —Recklessly under circumstances manifesting extreme indifference to the value of human life
§ 7:26 — —Upon a law enforcement officer or other official
§ 7:27 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:28 —Attempts to cause bodily injury to another with a deadly weapon
§ 7:29 — —Upon a law enforcement officer or other official
§ 7:30 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:31 —Purposely or knowingly causes bodily injury to another with a deadly weapon
§ 7:32 — —Upon a law enforcement officer or other official
§ 7:33 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:34 —Attempts to cause bodily injury to another using a means likely to produce death or serious bodily harm
§ 7:35 — —Upon a law enforcement officer or other official
§ 7:36 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:37 —Purposely or knowingly causes bodily injury to another using a means likely to produce death or serious bodily harm
§ 7:38 — —Upon a law enforcement officer or other official
§ 7:39 — —Upon a person 65 years of age or older or a vulnerable adult
§ 7:40 —Injured a child who was getting on or off a school bus
§ 7:41 Assault with intent to ravish
§ 7:42 Simple domestic violence
§ 7:43 Simple domestic violence—Attempts by physical menace to put family member in fear of imminent serious bodily harm
§ 7:44 Aggravated domestic violence
§ 7:45 —Strangling
§ 7:46 —Attempted to strangle
§ 7:47 Strangle—Definition

Research References

West's Key Number Digest

Assault and Battery 🔑47 to 97; Criminal Law 🔑31 to 82, 304 to 572, 769 to 868

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923

Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 7:1 Simple assault—Attempt to cause bodily injury to another

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted to cause bodily injury to *[name of victim]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1).

§ 7:2 Simple assault—Attempt to cause bodily injury to another—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted to cause bodily injury to *[name of victim]*;
3. By *[description of means]*;
4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that
5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that
6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:3 Simple assault—Attempt to cause bodily injury to another—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted to cause bodily injury to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:4 Simple assault—Purposely, knowingly causes bodily injury to another

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* purposely and/or knowingly and unlawfully caused bodily injury to *[name of victim]*;

3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1).

§ 7:5 Simple assault—Purposely, knowingly causes bodily injury to another—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* purposely and/or knowingly and unlawfully caused bodily injury to *[name of victim]*;

3. By *[description of means]*; and

4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

6. *[Name of defendant]* knew that *[name of victim]* was acting

within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:6 Simple assault—Purposely, knowingly causes bodily injury to another—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* purposely and/or knowingly and unlawfully cause bodily injury to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:7 Simple assault—Recklessly causes bodily injury to another

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* recklessly and unlawfully caused bodily injury to *[name of victim]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1).

§ 7:8 Simple assault—Recklessly causes bodily injury to another—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* recklessly and unlawfully caused bodily injury to *[name of victim]*;

3. By *[description of means]*; and

4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:9 Simple assault—Recklessly causes bodily injury to another—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did recklessly and unlawfully cause bodily injury to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:10 Simple assault—Negligently causes bodily injury to another with a deadly weapon

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* negligently and unlawfully caused bodily injury, with a deadly weapon, to *[name of victim]*;

3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1).

§ 7:11 Simple assault—Negligently causes bodily injury to another with a deadly weapon—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* negligently and unlawfully caused bodily injury, with a deadly weapon, to *[name of victim]*;

3. By *[description of means]*; and

4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

6. *[Name of defendant]* knew that *[name of victim]* was acting

within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:12 Simple assault—Negligently causes bodily injury to another with a deadly weapon—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* negligently and unlawfully caused bodily injury, with a deadly weapon, to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:13 Simple assault—Negligently causes bodily injury to another using other means likely to produce death or serious bodily harm

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[number]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* negligently and unlawfully caused bodily injury, using other means likely to produce death or serious bodily harm, to *[name of victim]*;
3. By *[description of means]*, which was likely to kill or cause serious bodily harm to *[name of victim]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1).

§ 7:14 Simple assault—Negligently causes bodily injury to another using other means likely to produce death or serious bodily harm—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* negligently and unlawfully caused bodily injury, using other means likely to produce death or serious bodily harm, to *[name of victim]*;

3. By *[description of means]*;

4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:15 Simple assault—Negligently causes bodily injury to another using other means likely to produce death or serious bodily harm—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* negligently and unlawfully caused bodily injury, using other means likely to produce death or serious bodily harm, to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:16 Simple assault—Attempts by physical menace to put another in fear of imminent serious bodily harm

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted by physical menace to put *[name of victim]* in fear of imminent serious bodily harm;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1).

§ 7:17 Simple assault—Attempts by physical menace to put another in fear of imminent serious bodily harm—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted by physical menace to put *[name of victim]* in fear of imminent serious bodily harm;
3. By *[description of means]*;
4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:18 Simple assault—Attempts by physical menace to put another in fear of imminent serious bodily harm—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted by physical menace to put *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*, in fear of imminent serious bodily harm;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the

above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(1). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:19 Aggravated assault—Attempts to cause serious bodily injury to another

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* unlawfully attempted to cause serious bodily injury to *[name of victim]*;

3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2).

§ 7:20 Aggravated assault—Attempts to cause serious bodily injury to another—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted to cause serious bodily injury to *[name of victim]*;
3. By *[description of means]*;
4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that
5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that
6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:21 Aggravated assault—Attempts to cause serious bodily injury to another—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted to cause serious bodily injury to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:22 Aggravated assault—Purposely, knowingly causes serious bodily injury

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in Count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* purposely and/or knowingly and unlawfully caused serious bodily injury to *[name of victim]*;
3. By *[description of actions]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of Count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2).

§ 7:23 Aggravated assault—Purposely, knowingly causes serious bodily injury to another—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* purposely and/or knowingly and unlawfully caused serious bodily injury to *[name of victim]*;
3. By *[description of means]*;
4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that
5. *[Name of victim]* was acting within the scope of *[his / her]* duty,

office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:24 Aggravated assault—Purposely, knowingly causes serious bodily injury to another—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* purposely and/or knowingly and unlawfully cause serious bodily injury to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:25 Aggravated assault—Recklessly under circumstances manifesting extreme indifference to the value of human life

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* recklessly, under circumstances manifesting extreme indifference to the value of human life, and unlawfully caused serious bodily injury to *[name of victim]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2).

§ 7:26 Aggravated assault—Recklessly under circumstances manifesting extreme indifference to the value of human life—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* recklessly, under circumstances manifesting extreme indifference to the value of human life, and unlawfully caused serious bodily injury to *[name of victim]*;

3. By *[description of means]*;

4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:27 Aggravated assault—Recklessly under circumstances manifesting extreme indifference to the value of human life—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did recklessly, under circumstances manifesting extreme indifference to the value of human life, and unlawfully cause serious bodily injury to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:28 Aggravated assault—Attempts to cause bodily injury to another with a deadly weapon

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted to cause bodily injury, with a deadly weapon, to *[name of victim]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2).

§ 7:29 Aggravated assault—Attempts to cause bodily injury to another with a deadly weapon—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* unlawfully attempted to cause bodily injury, with a deadly weapon, to *[name of victim]*;

3. By *[description of means]*;

4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:30 Aggravated assault—Attempts to cause bodily injury to another with a deadly weapon—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted to cause bodily

injury, with a deadly weapon, to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;

3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:31 Aggravated assault—Purposely or knowingly causes bodily injury to another with a deadly weapon

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* purposely or knowingly and unlawfully caused bodily injury, with a deadly weapon, to *[name of victim]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2).

§ 7:32 Aggravated assault—Purposely or knowingly causes bodily injury to another with a deadly weapon—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]

NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in Count *[number of count]* with the offense of aggravated assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* purposely or knowingly and unlawfully caused bodily injury, with a deadly weapon, to *[name of victim]*;
3. By *[description of means]*; and
4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that
5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that
6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:33 Aggravated assault—Purposely or knowingly causes bodily injury to another with a deadly weapon—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* purposely or knowingly and unlawfully cause bodily injury, with a deadly weapon, to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:34 Aggravated assault—Attempts to cause bodily injury to another using a means likely to produce death or serious bodily harm

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted to cause bodily injury, using a means likely to produce death or serious bodily harm, to *[name of victim]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2).

§ 7:35 Aggravated assault—Attempts to cause bodily injury to another using a means likely to produce death or serious bodily harm—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* unlawfully attempted to cause bodily injury, using a means likely to produce death or serious bodily harm, to *[name of victim]*;

3. By *[description of means]*; and

4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that

6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:36 Aggravated assault—Attempts to cause bodily injury to another using a means likely to produce death or serious bodily harm—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully attempted to cause bodily injury, using a means likely to produce death or serious bodily harm, to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:37 Aggravated assault—Purposely or knowingly causes bodily injury to another using a means likely to produce death or serious bodily harm

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* purposely or knowingly and unlawfully caused bodily injury, using a means likely to produce death or serious bodily harm, to *[name of victim]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2).

§ 7:38 Aggravated assault—Purposely or knowingly causes bodily injury to another using a means likely to produce death or serious bodily harm—Upon a law enforcement officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault upon a *[specification of law enforcement officer or other official specified in § 97-3-7].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* purposely or knowingly and unlawfully caused bodily injury, using a means likely to produce death or serious bodily harm, to *[name of victim]*;
3. By *[description of means]*;
4. At such time, *[name of victim]* was a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that
5. *[Name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*; and that
6. *[Name of defendant]* knew that *[name of victim]* was acting within the scope of *[his/her]* duty, office, or employment as a *[specification of law enforcement officer or other official specified in § 97-3-7]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Dotson v. State, 358 So. 2d 1321 (Miss. 1978).

§ 7:39 Aggravated assault—Purposely or knowingly causes bodily injury to another using a means likely to produce death or serious bodily harm—Upon a person 65 years of age or older or a vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated assault.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* purposely or knowingly and unlawfully cause bodily injury, using a means likely to produce death or serious bodily harm, to *[name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*;
3. By *[description of means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2). See Miss. Code Ann. § 43-47-5 ("Vulnerable adult" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.).

For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 7:40 Aggravated assault—Injured a child who was getting on or off a school bus

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] is charged in count *[number of count]* with aggravated assault.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did unlawfully cause injury to *[name of child]*, a child, who was getting on or off a school bus;
3. By *[description of actions]*,

then you shall find the defendant guilty as charged.

If the prosecution did not prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(2).

§ 7:41 Assault with intent to ravish

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of assault with intent to ravish.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully assaulted, with the intent to forcibly ravish, *[name of victim]*;
3. By *[description of means]*; and
4. *[Name of victim]* was of previous chaste character;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-71.

§ 7:42 Simple domestic violence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple domestic violence.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully *[attempted to cause bodily injury/purposely and/or knowingly caused bodily injury/*

recklessly caused bodily injury/negligently caused bodily injury/with a deadly weapon/negligently caused bodily injury/using other means likely to produce death or serious bodily harm];

3. To *[name of victim]*, who is/was *[specification of person or relationship specified in § 97-3-7]* by *[description of defendant's alleged actions]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(3). See Mississippi Criminal Jury Instructions §§ 7:1, 7:4, 7:7, 7:10 and 7:13.

§ 7:43 Simple domestic violence—Attempts by physical menace to put family member in fear of imminent serious bodily harm

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of simple domestic violence.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* unlawfully attempted by physical menace to put *[name of victim]* in fear of imminent serious bodily harm by *[description of means of violence]*; and

3. *[Name of victim]* is/was *[specification of person or relationship specified in § 97-3-7]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(3). See Mississippi Criminal Jury Instruction § 7:16.

§ 7:44 Aggravated domestic violence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of aggravated domestic violence.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully *[attempted to cause serious bodily injury; or purposely and/or knowingly caused serious bodily injury; or recklessly/under circumstances manifesting extreme indifference to the value of human life/ caused serious bodily injury/attempted to cause bodily injury, with a deadly weapon/purposely or knowingly caused bodily injury, with a deadly weapon/attempted to cause bodily injury, using a means likely to produce death or serious bodily harm; or purposely or knowingly caused bodily injury, using a means likely to produce death or serious bodily harm]*;
3. To *[name of victim]*, who is/was *[specification of person or relationship specified in § 97-3-7]* by *[description of actions]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(4). See Mississippi Criminal Jury Instructions §§ 7:19, 7:22, 7:25, 7:28, 7:31, 7:34, and 7:37.

§ 7:45 Aggravated domestic violence—Strangling

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in Count *[number of count]* with the offense of aggravated domestic violence.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully strangled *[name of victim]*, who is/was *[specification of person or relationship specified in § 97-3-7]* by *[description strangulation]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of Count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(4). For definition of strangle, see Mississippi Criminal Jury Instruction § 7:47.

§ 7:46 Aggravated domestic violence—Attempted to strangle

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in Count *[number of count]* with the offense of aggravated domestic violence.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* unlawfully attempted to strangle *[name of victim]*, who is/was *[specification of person or relationship specified in § 97-3-7]* by *[description strangulation]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of Count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(4). For definition of strangle, see Mississippi Criminal Jury Instruction § 7:47.

§ 7:47 Strangle—Definition

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

"Strangle" means to restrict the flow of oxygen or blood by intentionally applying pressure on the neck, throat or chest of another person by any means or to intentionally block the nose or mouth of another person by any means.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-7(9).

Chapter 8

Offenses Affecting Persons

§ 8:1 Murder—Deliberate design (malice aforethought)
§ 8:2 —Depraved heart
§ 8:3 —Engaged in the commission of felony (noncapital)
§ 8:4 —Deliberate design death of unborn child
§ 8:5 —As lesser included offense
§ 8:6 Capital murder—Killing a peace officer or other official
§ 8:7 —Defendant under a life sentence
§ 8:8 —Use or detonation of a bomb or explosive device
§ 8:9 —Defendant offered or received something of value for committing the murder
§ 8:10 —Engaged in the commission of a felony
§ 8:11 —Engaged in felonious child abuse or battery
§ 8:12 —Perpetrated on educational property
§ 8:13 —Killing an elected official
§ 8:14 Manslaughter—Engaged in the commission of a felony (noncapital)
§ 8:15 —Engaged in the commission of a misdemeanor
§ 8:16 —Resisting an unlawful act
§ 8:17 —Victim engaged in trespass
§ 8:18 —Heat of passion
§ 8:19 —Dangerous animal
§ 8:20 —Culpable negligence
§ 8:21 —As lesser included offense
§ 8:22 —Overloading a boat
§ 8:23 —Assisting a person to commit suicide
§ 8:24 Kidnapping—Forcible seizure with or without intent to secretly confine
§ 8:25 —With intent to confine or imprison against the victim's will
§ 8:26 —Selling, buying, attempting to sell or buy a child
§ 8:27 Kidnapping child under age 16
§ 8:28 Kidnapping vulnerable adult
§ 8:29 Interstate removal of child under age 14 by noncustodial parent or relative
§ 8:30 Statutory rape—Victim at least age 14 but under age 16
§ 8:31 —Victim is under age 14
§ 8:32 Robbery
§ 8:33 —Threat to injure person or relative at another time

§ 8:34 —Use of deadly weapon
§ 8:35 Attempted armed robbery
§ 8:36 Carjacking
§ 8:37 Armed carjacking
§ 8:38 Mayhem

Research References

West's Key Number Digest

Criminal Law 🔑31 to 82, 304 to 572, 769 to 868; Homicide 🔑500 to 661(4), 750 to 809, 1362 to 1574; Kidnapping 🔑1 to 6; Rape 🔑1 to 35, 57, 59; Robbery 🔑1 to 22, 25 to 27; Suicide 🔑1 to 4

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 8:1 Murder—Deliberate design (malice aforethought)

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of *[murder/first-degree murder]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[county of offense]*;
2. That *[victim's name]* was a human being; and
3. That *[Defendant's name]* without authority of law did wilfully

and with malice aforethought kill *[victim's name]* by *[describe method or means]* with the deliberate design to effect the death of *[victim's name]*;

*[4. And not in necessary self-defense;]**

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(1)(a) (designated as first-degree murder by 2013 amendment).

See Jones v. State, 710 So. 2d 870, 876 (Miss. 1998) (malice aforethought, premeditated design, and deliberate design all mean the same thing).

*Element 4 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

In a prosecution for deliberate design murder, where a manslaughter instruction is warranted and granted, the jury should be instructed as to how to determine the "aforethought" portion of "malice aforethought" or the "deliberation" portion of "deliberate design." Williams v. State, 729 So. 2d 1181 (Miss. 1998).

§ 8:2 Murder—Depraved heart

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of *[murder / second-degree murder]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]*, in ________ *[county of offense]*;

2. That ________ *[victim's name]* was a human being; and

3. That ________ *[Defendant's name]* without authority of law did kill ________ *[victim's name]* by ________ *[describe method or*

means] while in the commission of an act eminently dangerous to others and evincing a depraved heart, regardless of human life, although without any premeditated design to effect the death of any particular individual;

*[4. And not in necessary self-defense;]**

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[Defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(1)(b) (designated as second-degree murder by 2013 amendment).

*Element 4 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

§ 8:3 Murder—Engaged in the commission of felony (noncapital)

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of *[murder/first-degree murder]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]*, in ________ *[county of offense]*;

2. That ________ *[victim's name]* was a human being; and

3. That without any design to effect death and without authority of law, ________ *[Defendant's name]* did kill ________ *[victim's name]*;

4. While ________ *[Defendant's name]* was engaged in the commission of the crime of ________ *[name felony other than rape,*

kidnapping, burglary, arson, robbery, sexual battery, unnatural intercourse with any child under the age of 12, or non-consensual unnatural intercourse with mankind, or felonious abuse and/or battery of a child], as instructed in jury instruction no. ______;

*[5. And not in necessary self-defense;]**

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ______ *[Defendant's name]* not guilty of ______ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(1)(c) (designated as first-degree murder by 2013 amendment).

Element 4 makes reference to an instruction that sets forth the elements of the underlying felony. The State has the burden of proof to prove each element of the underlying felony beyond a reasonable doubt. Carr v. State, 655 So. 2d 824 (Miss. 1995).

*Element 5 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

§ 8:4 Murder—Deliberate design death of unborn child

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of *[murder/first-degree murder]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[county of offense]*;
2. *[Deceased unborn child]*, was an unborn child, and
3. That *[Defendant's name]*, without authority of law did kill *[deceased unborn child]*, with deliberate design to effect the death of the unborn child;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[Defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-3-19(1)(d) (designated as first-degree murder by 2013 amendment).

§ 8:5 Murder—As lesser included offense

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If you find from the evidence in this case that the defendant, ________ *[defendant's name]*, is not guilty of the crime of capital murder, then you should continue with your deliberations to consider the elements of the lesser crime of ________ *[specify murder charge]*.

Murder is ________ *[as defined in appropriate murder statute]*.

If you find from the evidence in this case beyond a reasonable doubt that:

[SPECIFY ELEMENTS FROM THE APPROPRIATE JURY INSTRUCTION FOR MURDER]

then you shall find the defendant guilty of murder.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of murder.

NOTES TO FORM

Practice Notes

A lesser-included offense instruction should be granted unless the trial judge can say, taking the evidence in the light most favorable to the accused and considering all the reasonable inferences which may be drawn in favor of the accused from the evidence, that no reasonable jury could find the defendant guilty of a lesser-included offense. Welch v. State, 566 So. 2d 680, 684 (Miss. 1990). See Stewart v. State, 909 So. 2d 52 (Miss. 2005); Hobson v. State, 730 So. 2d 20 (Miss. 1998).

§ 8:6 Capital murder—Killing a peace officer or other official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

[Name of defendant] has been charged in *[number of count]* with the offense of capital murder.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[county of offense]*;
2. That *[name of victim]* was a human being, who was a peace officer, as defined in instruction number *[number of instruction]*, or fireman acting in *[his/her]* official capacity or performing an act in *[his/her]* official capacity; and
3. That *[name of defendant]* without authority of law did wilfully and with malice aforethought kill *[name of victim]* by *[description of method or means] [with the deliberate design to effect the death of [name of victim]/while in the commission of an act eminently dangerous to others and evincing a depraved heart, regardless of human life, although without any premeditated design to effect the death of any particular individual/ with or without any design to effect death while [name of defendant] was engaged in the commission of the crime of[name of felony other than rape, kidnapping, burglary, arson, robbery, sexual battery, unnatural intercourse with any child under the age of 12, or non-consensual unnatural intercourse with mankind, or felonious abuse and/or battery of a child], as instructed in jury instruction no. [number of instruction]]*;
4. And that *[name of defendant]* acted with knowledge that the victim was a peace officer or fireman;

[OPTIONAL: 5. And not in necessary self-defense;]

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(2)(a).

For purposes of this charge, the term peace officer is any state or federal law enforcement officer, including, but not limited to, a federal park ranger, the sheriff of or police officer of a city or town, a conservation officer, a parole officer, a judge, senior status judge, special judge, district attorney, legal assistant to a district attorney, county prosecuting attorney or any other court official, an agent of the Alcoholic Beverage Control Division of the State Tax Commission, an agent of the Bureau of Narcotics, personnel of the Mississippi Highway Patrol, and the employees of the Department of Corrections who are designated as peace officers by the Commissioner of Corrections pursuant to Section 47-5-54, and the superintendent and his deputies, guards, officers and other employees of the Mississippi State Penitentiary. Miss. Code Ann. § 97-3-19(2)(a).

For the definition of peace officer, see Mississippi Criminal Jury Instruction § 3:21.

Element 5 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

§ 8:7 Capital murder—Defendant under a life sentence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

[Name of defendant] has been charged in *[number of count]* with the offense of capital murder.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[county of offense]*;
2. That *[name of victim]* was a human being; and
3. That *[name of defendant]* without authority of law did wilfully and with malice aforethought kill *[name of victim]* by *[description of method or means] [with the deliberate design to effect the death of [name of victim]/while in the commission of an act eminently dangerous to others and evincing a depraved heart, regardless of human life, although without any premeditated design to effect the death of any particular individual/with or without any design to effect death while [name of defendant] was engaged in the commission of the crime of [name of felony other than rape, kidnapping, burglary, arson, robbery, sexual battery, unnatural intercourse with any child under the age of 12, or non-consensual unnatural intercourse with*

mankind, or felonious abuse and/or battery of a child], as instructed in jury instruction no. [number of instruction]];

4. While *[name of defendant]* was under a sentence of life imprisonment;

[OPTIONAL: 5. And not in necessary self-defense;]
then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(2)(b).

Element 5 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

§ 8:8 Capital murder—Use or detonation of a bomb or explosive device

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

[Name of defendant] has been charged in *[number of count]* with the offense of capital murder.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[county of offense]*;
2. That *[name of victim]* was a human being; and
3. That *[name of defendant]* without authority of law did wilfully and with malice aforethought kill *[name of victim]* by the use or detonation of a bomb or explosive device by *[description of method or means]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(2)(c).

§ 8:9 Capital murder—Defendant offered or received something of value for committing the murder

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

[Name of defendant] has been charged in *[number of count]* with the offense of capital murder.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[county of offense]*;
2. That *[name of victim]* was a human being; and
3. That *[name of defendant]* without authority of law did wilfully and with malice aforethought kill *[name of victim]* by *[description of method or means]* with the deliberate design to effect the death of *[name of victim]*;
4. And that *[name of defendant]* was offered or received something of value, namely *[description of value offered or received]* for committing the murder;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(2)(d). According to Miss. Code Ann. § 97-3-19(2)(d) all parties to this crime are upon conviction guilty as principals.

§ 8:10 Capital murder—Engaged in the commission of a felony

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of capital murder.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]*, in ________ *[county of offense]*;

2. That ________ *[victim's name]* was a human being; and

3. That with or without any design to effect death and without authority of law, ________ *[defendant's name]* did kill ________ *[victim's name]*;

4. While ________ *[defendant's name]* was engaged in the commission of the crime of ________ *[rape, burglary, kidnapping, arson, robbery, sexual battery, unnatural intercourse with any child under the age of 12, or non-consensual unnatural intercourse with mankind, or in any attempt to commit such felonies]*, as instructed in jury instruction no. ________;

*[5. And not in necessary self-defense;]**

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(2)(e).

Element 4 makes reference to an instruction that sets forth the elements of the underlying felony. The State has the burden of proof to prove each element of the underlying felony beyond a reasonable doubt. Carr v. State, 655 So. 2d 824(Miss. 1995).

*Element 5 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

§ 8:11 Capital murder—Engaged in felonious child abuse or battery

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of capital murder.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]* in ________ *[county of offense]*;
2. That ________ *[victim's name]* was a human being; and
3. That with or without any design to effect death and without authority of law, ________ *[defendant's name]* did kill ________ *[victim's name]*;
4. While ________ *[defendant's name]* was engaged in the commission of the crime of ________ *[felonious abuse and/or battery of a child or in any attempt to commit such felony]*, as instructed in jury instruction no. ________;

*[5. And not in necessary self-defense;]**

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[Defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(2)(f).

Element 4 makes reference to an instruction that sets forth the elements of the underlying felony. The State has the burden of proof to prove each element of the underlying felony beyond a reasonable doubt. Carr v. State, 655 So. 2d 824 (Miss. 1995).

*Element 5 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

§ 8:12 Capital murder—Perpetrated on educational property

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. — NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

[Name of defendant] has been charged in *[number of count]* with the offense of capital murder.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[county of offense]*;
2. That *[name of victim]* was a human being; and
3. That *[name of defendant]* without authority of law did wilfully and with malice aforethought kill *[name of victim]* by *[description of method or means] [with the deliberate design to effect the death of [name of victim]/while in the commission of an act eminently dangerous to others and evincing a depraved heart, regardless of human life, although without any premeditated design to effect the death of any particular individual/with or without any design to effect death while [name of defendant] was engaged in the commission of the crime of [name of felony other than rape, kidnapping, burglary, arson, robbery, sexual battery, unnatural intercourse with any child under the age of 12, or non-consensual unnatural intercourse with mankind, or felonious abuse and/or battery of a child], as instructed in jury instruction no. [number of instruction]]*;
4. And such act of killing was perpetrated on education property, namely *[description of educational property]* as defined in instruction number *[number of instruction]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(2)(g).

Educational property is any public or private school building or bus, public or private school campus, grounds, recreational area, athletic field, or other property owned, used or operated by any local school board, school, college or university board of trustees, or directors for the administration of any public or private educational institution or during a school-related activity, and shall include the facilities and property of the Oakley and Columbia juvenile training schools operated by the Department of Human Services; provided, however, that the term "educational property" shall not include any sixteenth section school land or lieu land on which is not located a school building, school campus, recreational area or athletic field. Miss. Code Ann. § 97-37-17.

For the definition of educational property, see Mississippi Criminal Jury Instruction § 3:16.

§ 8:13 Capital murder—Killing an elected official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

[Name of defendant] has been charged in *[number of count]* with the offense of capital murder.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[county of offense]*;
2. That *[name of victim]* was a human being, who was an elected official of a county, municipality, state or the federal government; and
3. That *[name of defendant]* without authority of law did wilfully and with malice aforethought kill *[name of victim]* by *[description of method or means] [with the deliberate design to effect the death of [name of victim]/while in the commission of an act eminently dangerous to others and evincing a depraved heart, regardless of human life, although without any premeditated design to effect the death of any particular individual/with or without any design to effect death while [name of defendant] was engaged in the commission of the crime of [name of felony other than rape, kidnapping, burglary, arson, robbery, sexual battery, unnatural intercourse with any child under the age of 12, or non-consensual unnatural intercourse with mankind, or felonious abuse and/or battery of a child], as instructed in jury instruction no. [number of instruction]]*; and
4. With knowledge that *[name of victim]* was a public official;

[OPTIONAL: 5. And not in necessary self-defense;]
then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-19(2)(h).

Element 5 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

§ 8:14 Manslaughter—Engaged in the commission of a felony (noncapital)

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of manslaughter.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]* in ________ *[county of offense]*;
2. That ________ *[victim's name]* was a human being; and
3. That ________ *[defendant's name]* without authority of law and without malice did kill ________ *[victim's name]* by ________ *[act, procurement or culpable negligence]*;
4. While ________ *[defendant's name]* was engaged in the commission of the felony of ________________ *[noncapital felony or attempt to commit any non-capital felony]*, as instructed in jury instruction no. ________;

*[5. And not in necessary self-defense;]**

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-27.

Element 4 makes reference to an instruction that sets forth the elements of the underlying felony. The State has the burden of proof to prove each element of the underlying felony beyond a reasonable doubt. Carr v. State, 655 So. 2d 824 (Miss. 1995).

*Element 5 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

For the definition of culpable negligence, see Mississippi Criminal Jury Instruction § 3:10.

§ 8:15 Manslaughter—Engaged in the commission of a misdemeanor

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of manslaughter.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]* in ________ *[county of offense]*;

2. That ________ *[victim's name]* was a human being; and

3. That ________ *[defendant's name]* without authority of law and without malice did kill ________ *[victim's name]* by ________ *[act, procurement or culpable negligence]* and ________ *[describe method or means]*;

4. While ________ *[defendant's name]* was engaged in the commission of the misdemeanor of ________________ *[or attempt to commit the misdemeanor]*, as instructed in jury instruction no. ________;

*[5. And not in necessary self-defense;]**

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-29.

Element 4 makes reference to an instruction that sets forth the elements of the underlying felony. The State has the burden of proof to prove each element of the underlying misdemeanor beyond a reasonable doubt. Carr v. State, 655 So. 2d 824 (Miss. 1995).

*Element 5 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

For the definition of culpable negligence, see Mississippi Criminal Jury Instruction § 3:10.

§ 8:16 Manslaughter—Resisting an unlawful act

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with manslaughter.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]* in ________ *[county of offense]*;
2. That ________ *[victim's name]* was a human being; and
3. That ________ *[defendant's name]* without authority of law and unnecessarily killed ________ *[victim's name]*;
4. At such time when ________ *[defendant's name]* was ________________ *[resisting an attempt by the victim to commit any felony, or to do any unlawful act, or after such attempt shall have failed]* the victim's ________________ *[describe such felony, unlawful act, or attempt]*;

*[5. And not in necessary self-defense;]**

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-31. See May v. State, 460 So. 2d 778 (Miss. 1984).

*Element 5 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

§ 8:17 Manslaughter—Victim engaged in trespass

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with manslaughter.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]* in ________ *[county of offense]*;
2. That ________ *[victim's name]* was a human being; and
3. That ________ *[defendant's name]* without authority of law and involuntarily killed ________ *[victim's name]*;
4. By ________ *[act or procurement or culpable negligence]* ________ *[describe method or means]*; and
5. At the time, ________ *[victim's name]* was ________ *[engaged in the commission of or attempting to commit]* ________ *[identify trespass by the victim]*;

*[6. And not in necessary self-defense;]**

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-33.

*Element 6 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

For the definition of culpable negligence, see Mississippi Criminal Jury Instruction § 3:10.

§ 8:18 Manslaughter—Heat of passion

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of manslaughter.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]* in ________ *[county of offense]*;
2. That ________ *[victim's name]* was a human being; and
3. That ________ *[defendant's name]* did kill ________ *[victim's name]*, without malice, in the heat of passion, ________________ *[in a cruel or unusual manner or by the use of a dangerous weapon]*, without authority of law, and not in necessary self-defense;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-35.

§ 8:19 Manslaughter—Dangerous animal

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of manslaughter.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]* in ________ *[county of offense]*;

2. That ________ *[victim's name]* was a human being; and

3. That ________ *[defendant's name]* was the owner of a mischievous animal and knew of the mischievous animal's propensity; and

4. ________ *[Defendant's name]* ________________ *[did unlawfully and wilfully suffer it to go at large/unlawfully kept it without ordinary care]* and while such animal was at large and not confined, did kill ________ *[victim's name]*, who took reasonable precautions to avoid the animal;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-45.

§ 8:20 Manslaughter—Culpable negligence

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of manslaughter.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]* in ________ *[county of offense]*;

2. That ________ *[victim's name]* was a human being; and

3. That ________ *[defendant's name]* without authority of law did kill ________ *[victim's name]*,

4. With culpable negligence, by ________ *[describe method or means]*;

*[5. And not in necessary self-defense;]**

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-47.

*Element 5 is to be included only if self-defense is a defense. In cases where self-defense is at issue, the burden is on the State to prove that the defendant was not acting in self-defense. Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999).

For the definition of culpable negligence, see Mississippi Criminal Jury Instruction § 3:10.

§ 8:21 Manslaughter—As lesser included offense

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

If you find from the evidence in this case that the defendant, ________ *[defendant's name]*, is not guilty of the crime of murder, then you should continue with your deliberations to consider the elements of the lesser crime of ________________ *[specify manslaughter charge]*.

Manslaughter is ________________ *[as defined in appropriate manslaughter statute]*.

If you find from the evidence in this case beyond a reasonable doubt that:

[SPECIFY ELEMENTS FROM THE APPROPRIATE JURY INSTRUCTION FOR MANSLAUGHTER]

then you shall find the defendant guilty of manslaughter.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of manslaughter.

NOTES TO FORM

Practice Notes

A lesser-included offense instruction should be granted unless the trial judge can say, taking the evidence in the light most favorable to the accused and considering all the reasonable inferences which may be drawn in favor of the accused from the evidence, that no reasonable jury could find the defendant guilty of a lesser-included offense. Welch v. State, 566 So. 2d 680, 684 (Miss. 1990). See Stewart v. State, 909 So. 2d 52 (Miss. 2005); Hobson v. State, 730 So. 2d 20 (Miss. 1998).

§ 8:22 Manslaughter—Overloading a boat

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[designation of count]* with manslaughter.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of alleged crime]*, in *[name of county]*;
2. *[Name of defendant]* navigated a boat for money;
3. *[Name of defendant]* intentionally or negligently and unlawfully took on too many passengers or goods onto the boat, which caused the boat to sink or overturn; and
4. As a result of the boat sinking or overturning, *[name of victim]* drowned or was killed, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[designation of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-41.

§ 8:23 Manslaughter—Assisting a person to commit suicide

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[designation of count]* with assisting a person to *[commit/attempt to commit]* suicide.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of alleged crime]*, in *[name of county]*;
2. *[Name of defendant]* intentionally and unlawfully assisted or encouraged *[name of victim]* to commit suicide or to attempt to commit suicide by *[description of alleged actions]*, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[designation of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-49.

§ 8:24 Kidnapping—Forcible seizure with or without intent to secretly confine

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[number of count]* with kidnapping.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did willfully and without lawful authority; and
3. With or without the intent to secretly confine;
4. Forcibly seize and confine *[name of victim]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-53.

§ 8:25 Kidnapping—With intent to confine or imprison against the victim's will

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[NUMBER OF CASE]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[number of count]* with kidnapping.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did willfully and without lawful authority;
3. Forcibly inveigle or kidnap *[name of victim]*;
4. With the intent to cause *[name of victim]* to be confined or imprisoned against *[his / her]* will;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the

above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-3-53.

§ 8:26 Kidnapping—Selling, buying, attempting to sell or buy a child

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[designation of count]* with selling, buying, offering to sell, or offering to buy a child or unborn child.

1. On or about *[date of alleged crime]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully *[sold/bought/offered to sell/offered to buy]* *[a/an]* *[child/unborn child]* by *[description of alleged actions]*, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[designation of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-52.

§ 8:27 Kidnapping child under age 16

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[number of count]* with kidnapping a child under the age of 16.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did without lawful authority;
3. Forcibly *[seize/inveigle/kidnap] [name of child]*; and
4. At the time of the offense, *[name of child]* was under the age of sixteen (16) years; and
5. The defendant did so against the will of *[name of guardian]*, who at the time of the offense was the *[name of guardian]* of *[name of child]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-53.

§ 8:28 Kidnapping vulnerable adult

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[number of count]* with kidnapping a vulnerable adult.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did without lawful authority;
3. Forcibly *[seize/inveigle/kidnap] [name of victim]*, who was at the time sixty-five (65) years of age or older, or a vulnerable adult, as defined in instruction number *[number of instruction]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-53. For the definition of vulnerable adult, see Mississippi Criminal Jury Instruction § 3:29.

§ 8:29 Interstate removal of child under age 14 by noncustodial parent or relative

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with interstate removal of a child under age 14 by noncustodial *[parent or relative]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. With the intent to violate the order of the *[name of court]* awarding custody of *[name of child]* to *[name and relationship of custodian]*, *[name of defendant]* did unlawfully remove *[name of child]* from this state;
3. At a time when *[name of child]* was under the age of 14 years; and
4. *[Defendant's name]* is the *[relationship to child]* of *[child's name]*; and
5. *[Defendant's name]* had no legal right to custody of *[child's name]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-51(2).

§ 8:30 Statutory rape—Victim at least age 14 but under age 16

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. ______

______ *[Defendant's name]* has been charged in ______ *[count no.]* with the offense of statutory rape.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ______ *[date of offense]*, in ______ *[county of offense]*;
2. ______ *[Defendant's name]* was seventeen (17) years of age or older and unlawfully had sexual intercourse with ______ *[victim's name]* who was at the time of the offense:
    (a) at least fourteen (14) but under sixteen (16) years of age; and
    (b) is thirty-six (36) or more months younger than ______ *[Defendant]*; and
    (c) was not the defendant's spouse;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ______ *[defendant's name]* not guilty of ______ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-65(1)(a).

§ 8:31 Statutory rape—Victim is under age 14

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]

NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in ________ *[count no.]* with the offense of statutory rape.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[county of offense]*;
2. ________ *[Defendant's name]* unlawfully had sexual intercourse with *[victim's name]* who at the time of the offense was:
    (a) under the age of fourteen (14); and
    (b) is twenty-four (24) or more months younger than *[Defendant]*; and ________
    (c) was not the defendant's spouse;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]*________ not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-65(1)(b).

§ 8:32 Robbery

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]

NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of robbery.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* willfully and unlawfully took personal property of *[name of victim]*;
3. *[In his/her presence or From his/her person]*; and
4. Against the victim's will;
5. *[By violence toward (victim's name) or By putting (victim's name) in fear of some immediate injury to his/her person in the taking of the personal property]*; and
6. At the time, *[defendant's name]* had the intent to permanently deprive *[defendant's name]* of the property;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-73.
Thomas v. State, 278 So. 2d 469 (Miss. 1973).

§ 8:33 Robbery—Threat to injure person or relative at another time

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of robbery.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* willfully and unlawfully took personal property of *[name of victim]*;
3. *[In his/her presence or From his/her person]*; and
4. *[Victim's name] [delivered the property or suffered the property to be taken]* due to fear of some injury *[defendant's name]* threatened to inflict at some different time to the *[person or property]* of *[victim's name or name of person threatened]*; and
5. Such fear was produced by the threats of *[defendant's name]*; and
6. At the time, *[defendant's name]* had the intent to permanently deprive *[victim's name]* of the property;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-77.

§ 8:34 Robbery—Use of deadly weapon

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of robbery.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* willfully and unlawfully took personal property of *[name of victim]*;
3. *[In his/her presence or From his/her person]*; and
4. Against the victim's will;

5. *[By violence toward* ________*(victim's name) or By putting* ________*(victim's name) in fear of some immediate injury to his/her person]*;
6. By exhibiting *[instrumentality]*; and
7. Such *[instrumentality]* was a deadly weapon; and
8. At the time, *[defendant's name]* had the intent to permanently deprive *[victim's name]* of the property;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-79.

Thomas v. State, 278 So. 2d 469 (Miss. 1973).

§ 8:35 Attempted armed robbery

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of attempted armed robbery under Section 97-3-79 of the Mississippi Code.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* willfully and unlawfully attempted to take the personal property of *[name of victim]*;
3. ________ *[In his/her presence or From his/her person]*; and
4. Against the person's will;
5. ________ *[By violence toward* ________ *(victim's name) or By putting* ________ *(victim's name) in fear of some immediate injury to his/her person]*;

6. By exhibiting ________ *[instrumentality]*; and
7. Such ________ *[instrumentality]* was a deadly weapon; and
8. At the time, ________ *[defendant's name]* had the intent to permanently deprive ________ *[victim's name]* of the property;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-79.
Thomas v. State, 278 So. 2d 469 (Miss. 1973).

§ 8:36 Carjacking

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of carjacking under Section 97-39-117(1) of the Mississippi Code.

If you, the jury, find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did knowingly or recklessly, by force or violence, against resistance, or by sudden or stealthy seizure or snatching, or by putting in fear, or by attempting to put in fear, or by any other means;
3. Unlawfully take a motor vehicle from another person's immediate actual possession, namely from ________ *[name of victim]*,

then it is your sworn duty to find the defendant, ________, guilty of carjacking.

If the State has failed to prove any one or more of the above listed essential elements beyond a reasonable doubt, then you shall find the defendant, ________, not guilty of carjacking, in count number ________.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-117(1).
Williams v. State, 772 So. 2d 406 (Miss. Ct. App. 2000).

§ 8:37 Armed carjacking

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. — NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of armed carjacking under § 97-39-117(2) of the Mississippi Code.

If you, the jury, find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did knowingly or recklessly, by force or violence, against resistance, or by sudden or stealthy seizure or snatching, or by putting in fear, or by attempting to put in fear, or by any other means;
3. By exhibiting a *[an instrumentality specifically listed in § 97-39-117(2) as being a dangerous and deadly weapon]* or by exhibiting a *[an instrumentality]* which is capable of inflicting death or serious bodily harm;
4. Unlawfully take a motor vehicle from *[victim's name]*'s immediate actual possession,

then it is your sworn duty to find the defendant, *[name of defendant]*, guilty of armed carjacking.

If the State has failed to prove any one or more of the above listed essential elements beyond a reasonable doubt, then you shall find the defendant, *[name of defendant]*, not guilty of armed car jacking, in count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-117(2). Williams v. State, 772 So. 2d 406 (Miss. Ct. App. 2000).

§ 8:38 Mayhem

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[designation of count]* with mayhem.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of alleged crime]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully *[mutilated/disfigured/destroyed]* *[name of victim]*'s *[specification of body part]* with *[deliberate design/the intent to kill]*;
3. By *[description of alleged actions]*, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[designation of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-3-59.

Chapter 9

Offenses Affecting Children

§ 9:1 Abandonment of child under age six
§ 9:2 Desertion or nonsupport of child under age 18
§ 9:3 Enticement of child for concealment, prostitution, or marriage
§ 9:4 Fondling of child under age 16 or a mentally defective person
§ 9:5 Fondling of child under age 18 by person of authority
§ 9:6 —Definition of person of authority
§ 9:7 Depicting a child under age 18 engaged in sexual conduct
§ 9:8 —Definition of sexual conduct
§ 9:9 Sexual battery
§ 9:10 Sexual battery by person of authority—Definition of person of authority
§ 9:11 Carnal knowledge of a stepchild, adopted child, or child of cohabitating partner
§ 9:12 Felonious child abuse—With or without bodily harm
§ 9:13 —With bodily harm
§ 9:14 —With serious bodily harm

Research References

West's Key Number Digest

Criminal Law 🔑31 to 82, 304 to 572, 769 to 869; Rape 🔑1 to 35, 57, 59

Legal Encyclopedias

Am. Jur. 2d, Desertion and Nonsupport §§ 3 to 47

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 9:1 Abandonment of child under age six

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of abandonment of a child under the age of six.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]*, the *[father/mother/lawful custodian/person confided care]* of;
3. *[Name of child]*, a child under the age of six years;
4. Did unlawfully expose such child in *[description of place]*;
5. With intent wholly to abandon such child;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-5-1.

§ 9:2 Desertion or nonsupport of child under age 18

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[specification of count]* with the offense of *[desertion/nonsupport]* of a child under the age of 18 years . . .

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did unlawfully desert or willfully neglect or refuse to provide for the support and maintenance of;
3. *[Name of (child or children)] [the defendant's child or natural child when paternity has been established by law or acknowledged in writing by the defendant or children]*;
4. When said *[child/children] [was/were]* under the age of 18 years;
5. Leaving such *[child or children]* in a destitute or an impoverished situation;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-5-3.

§ 9:3 Enticement of child for concealment, prostitution, or marriage

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of enticing a child for *[concealment or prostitution or marriage]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* maliciously, willfully, or fraudulently and unlawfully;
3. Led, took, carried away, decoyed or enticed away;
4. A child under the age of 14 years;
5. With the intent to *[detain or conceal such child from its ________(parents or guardian or keeper by lawful charge)] [use the child for the purpose of ________(prostitution or concubinage or marriage)]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty in *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-5-5.

§ 9:4 Fondling of child under age 16 or a mentally defective person

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of fondling a child under the age of sixteen years or a mentally defective person.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* was above the age of eighteen years; and
3. For the purpose of gratifying his or her lust or indulging his or her depraved licentious sexual desires;
4. Did unlawfully handle, touch or rub *[name of victim]*;
5. With *[name of defendant]*'s hands, or any part of his or her body, or any member thereof; and
6. At the time of the offense, *[name of victim]* was *[(1) under the age of sixteen years or (2) a mentally defective, mentally incapacitated or physically helpless person]*; and
7. *[Name of defendant]* did so with or without *[name of victim]*'s consent;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count ________ *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-5-23(1).

See § 97-3-97 to determine whether the victim is a mentally defective, mentally incapacitated, or physically helpless person.

See also Dupuis v. State, 872 So. 2d 724 (Miss. Ct. App. 2004) (where there is a evidentiary basis and at the defendant's request the trial court may grant an instruction on unlawful touching as a lesser offense to sexual battery).

§ 9:5 Fondling of child under age 18 by person of authority

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of fondling a child under the age of eighteen (18) years.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]* in ________ *[county of offense]*;
2. ________ *[Defendant's name]* was above the age of eighteen (18) years; and
3. For the purpose of gratifying his or her lust or indulging his or her depraved licentious sexual desires did unlawfully handle, touch or rub
4. With ________ *[his or her hands, or any part of his or her body, or any member thereof]*; and
5. At the time of the offense________ *[Victim's name]* was under the age of eighteen (18) years of age and was younger than the defendant and was not the defendent's spouse; and
6. ________ *[Defendant's name]* did so with or without the child's consent; and
7. ________ *[Defendant's name]* was a person who occupied a position of trust or authority over the child;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[Defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-5-23(2). For the definition of a person of trust or authority, see Mississippi Criminal Jury Instruction § 9:6.

§ 9:6 Fondling of child under age 18 by person of authority—Definition of person of authority

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

You are instructed that a person who occupies a position of trust or authority over the child shall include but is not limited to: a child's teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader or coach.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-5-23(2).

§ 9:7 Depicting a child under age 18 engaged in sexual conduct

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of depicting a child under age 18 engaged in sexual conduct.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did, by any means including computer, unlawfully cause, solicit or knowingly permit *[name of victim]*, a child under the age of eighteen (18) years;
3. To engage in *[sexually explicit conduct or in the simulation of sexually explicit conduct]*;
4. For the purpose of producing any visual depiction of such conduct.

OR

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did, by any means including computer, unlawfully photograph, film, videotape or otherwise depict or record *[name of victim]*, a child under the age of eighteen (18) years;
3. Engaging in *[sexually explicit conduct or in the simulation of sexually explicit conduct]*.

OR

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did, by any means including computer, knowingly and unlawfully send, transport, transmit, ship, mail or receive a photograph, drawing, sketch, film, video tape or other visual depiction of *[name of victim]*, an actual child under the age of eighteen (18) years;
3. Who was engaged in sexually explicit conduct.

OR

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did, by any means including computer, unlawfully receive with intent to distribute, distribute for sale, sell, attempt to sell in any manner, a photograph, drawing, sketch, film, video tape or other visual depiction of *[name of victim]*, an actual child under the age of eighteen (18) years;
3. Who was engaged in sexually explicit conduct.

OR

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did, by any means including computer, knowingly and unlawfully possess any photograph, drawing, sketch, film, video tape or other visual depiction of *[name of victim]*, an actual child under the age of eighteen (18) years;
3. Who was engaged in sexually explicit conduct.

OR

1. On or about in *[name of county]*;

2. *[Name of defendant]* did, by any means including computer, knowingly and unlawfully access, with intent to view, a photograph, drawing, sketch, film, video tape or other visual depiction of *[name of victim]*, an actual child under the age of eighteen (18) years;

3. Who was engaged in sexually explicit conduct.

OR

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did, by any means including computer, knowingly and unlawfully entice, induce,

persuade, seduce, solicit, advise, coerce, or order *[name of victim]*, a child under the age of eighteen (18) years;

3. To meet with the defendant *[or any other person]*;
4. For the purpose of engaging in sexually explicit conduct.

OR

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did, by any means including computer, knowingly and unlawfully entice, induce, persuade, seduce, solicit, advise, coerce, or order *[name of victim]*, a child under the age of eighteen (18) years;
3. To produce any *[visual depiction of adult sexual conduct or any sexually explicit conduct]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-5-33 (1) through (7). See Miss. Code Ann. 97-5-31 for definitions for purposes of this statute. For the definition of sexual conduct, see Mississippi Criminal Jury Instruction § 9:8.

§ 9:8 Depicting a child under age 18 engaged in sexual conduct—Definition of sexual conduct

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]

NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

You are instructed that "sexually explicit conduct" means actual or simulated:

1. Oral genital contact, oral anal contact, or sexual intercourse as defined in Section 97-3-65, whether between persons of the same or opposite sex;

2. Bestiality;
3. Masturbation;
4. Sadistic or masochistic abuse;
5. Lascivious exhibition of the genitals or pubic area of any person; or
6. Fondling or other erotic touching of the genitals, pubic area, buttocks, anus or breast.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-5-31. See Miss. Code Ann. § 97-3-65(6) ("sexual intercourse" shall mean a joining of the sexual organs of a male and female human being in which the penis of the male is inserted into the vagina of the female or the penetration of the sexual organs of a male or female human being in which the penis or an object is inserted into the genitals, anus or perineum of a male or female).

For the definition of sexual intercourse, see Mississippi Criminal Jury Instruction § 3:26.

§ 9:9 Sexual battery

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of sexual battery.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully engaged in sexual penetration by *[cunnilingus / fellatio / buggery / pederasty / [description of act]]* or *[description of penetration]* or *[description of insertion of object]*;
3. With *[another person without his / her consent]* or *[Victim's name, a mentally defective or mentally incapacitated or physically helpless person]* or *[Victim's name, a child under the age of 14 and the defendant is 24 or more months older than the child]* or *[Victim's name, a child under the age of 18 years, if*

the defendant is in a position of trust or authority over the child];

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-3-95 to 97-3-99. For the definition of a person of trust or authority, see Mississippi Criminal Jury Instruction § 9:10.

Dupuis v. State, 872 So. 2d 724 (Miss. Ct. App. 2004) (where there is a evidentiary basis and at the defendant's request the trial court may grant an instruction on unlawful touching as a lesser offense to sexual battery).

§ 9:10 Sexual battery by person of authority—Definition of person of authority

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

You are instructed that a person who occupies a position of trust or authority over the child shall include but is not limited to: a child's teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader or coach.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-3-95(2).

§ 9:11 Carnal knowledge of a stepchild, adopted child, or child of cohabitating partner

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant]'s has been charged in *[specification of count]* with the offense of carnal knowledge of *[a stepchild / an adopted child / a child of the defendant's cohabitating partner]* . . ..

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully had carnal knowledge by *[statement of circumstances]* with;
3. The unmarried *[stepchild / adopted child / child of the defendant's cohabitating partner]*;
4. And that *[name of child]* was younger than *[defendant's name]* and was over 14 years, but under 18 years of age;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-5-41.

§ 9:12 Felonious child abuse—With or without bodily harm

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant's] has been charged in count number *[number of count]* with the offense of felonious child abuse.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about in *[name of county]*;
2. *[Name of defendant]* intentionally, knowingly, or recklessly and unlawfully *[burned/physically tortured/strangled, choked, or smothered/interfered with's breathing/poisoned/starved of nourishments needed to sustain life or growth/used a deadly weapon upon]*, whether or not bodily harm resulted; and
3. *[Name of child]* had not reached eighteenth birthday,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-5-39 (2)(a).

§ 9:13 Felonious child abuse—With bodily harm

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of felonious child abuse.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

[EITHER:]

2. *[Name of defendant]* intentionally, knowingly, or recklessly and unlawfully threw, kicked, bit, or cut *[name of child]*, who had not reached *[his/her]* eighteenth birthday;

[OR:]

2. *[Name of defendant]* intentionally, knowingly, or recklessly

and unlawfully struck *[name of child]*, who was under the age of fourteen (14), about the face or head with defendant's closed fist;

[OR:]

2. *[Name of defendant]* intentionally, knowingly, or recklessly and unlawfully struck *[name of child]*, who was under the age of five (5), *[in/on]* the face or head;

[OR:]

2. *[Name of defendant]* intentionally, knowingly, or recklessly and unlawfully kicked, bit, cut, or struck *[name of child]*'s genitals and *[name of child]* had not reached *[his/her]* eighteenth birthday;

[END OF CHOICES]

and

3. Some bodily harm actually occurred to *[name of child]*, then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-5-39(2)(b).

§ 9:14 Felonious child abuse—With serious bodily harm

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of felonious child abuse.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* intentionally, knowingly, or recklessly and unlawfully

[EITHER:]

struck *[name of child]* on the face or head;

[OR:]

disfigured or scarred *[name of child]*;

[OR:]

whipped or struck *[name of child]*;

[OR:]

abused *[name of child]* by *[description of actions]*];

[END OF CHOICES]

and

3. Serious bodily harm actually occurred to *[name of child]*, who had not reached *[his / her]* eighteenth birthday,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-5-39(2)(c).

Chapter 10

Offenses Affecting Administration of Justice

§ 10:1 Escape—Conveying articles useful for escape to prisoners
§ 10:2 —Aiding the escape of a felon
§ 10:3 —Concealing or harboring an escaped prisoner
§ 10:4 Escape or attempted escape from penitentiary or custody
§ 10:5 Intimidation of judge, juror, witness, or attorney—Obstruction of justice
§ 10:6 Perjury—Definition
§ 10:7 Subornation of perjury
§ 10:8 Bribery to procure perjury
§ 10:9 Resisting or obstructing arrest
§ 10:10 Obstruction of justice—Definition of giving criminal assistance
§ 10:11 —Hindering prosecution of a felony
§ 10:12 —Hindering prosecution of a misdemeanor
§ 10:13 —Bribing a witness
§ 10:14 —Receiving a bribe by a witness
§ 10:15 —Intimidating a witness
§ 10:16 —Tampering with a witness
§ 10:17 —Bribing a judge
§ 10:18 —Bribing a juror
§ 10:19 —Receiving a bribe by a juror
§ 10:20 —Intimidating a juror
§ 10:21 —Tampering with a juror
§ 10:22 —Tampering with evidence
§ 10:23 —Retaliation

Research References

West's Key Number Digest

Criminal Law 🔑31 to 82, 304 to 572, 769 to 868; Escape 🔑1 to 11; Obstructing Justice 🔑1 to 18; Perjury 🔑1 to 38

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923

Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 10:1 Escape—Conveying articles useful for escape to prisoners

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of conveying articles useful for escape to prisoners confined for felonies.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully conveyed or transported or smuggled;
3. *[Description of article conveyed]*, which would be useful in an escape;
4. To *[place of confinement]*; and
5. *[Defendant's name]* intended to help the escape of *[name of prisoner]* who was lawfully *[committed or detained]* in *[place of confinement]* for a felony;
6. *[Regardless of whether an escape was effected or even attempted]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-27.

§ 10:2 Escape—Aiding the escape of a felon

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of aiding the escape of a prisoner held for a felony.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully aided or assisted;
3. *[Name of felon]*, who was lawfully detained in *[place of confinement]*;
4. In an attempt to escape therefrom;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-29.

§ 10:3 Escape—Concealing or harboring an escaped prisoner

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of *[concealing or harboring]* an escaped prisoner.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* knowingly and unlawfully concealed or harbored;
3. *[Name of escapee]*, who escaped from the lawful custody of *[name officer, jail, prison or penitentiary]*;
4. By *[state facts showing defendant knowingly concealed or harbored the escapee]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-41.

§ 10:4 Escape or attempted escape from penitentiary or custody

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of *[escape or attempt to escape]* from *[the penitentiary or custody before confinement in the penitentiary]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2A. *[Name of defendant]* unlawfully escaped or attempted to escape from *[[name of facility]/custody before confinement in the penitentiary]* by *[statement of facts]*; or

2B. *[Name of defendant]* was authorized or entrusted by *[[name of authority]/[name of governor]]* to leave the penitentiary and willfully and unlawfully failed to return *[[description of time period]/after the purpose for leaving was accomplished]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]*not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-45.

§ 10:5 Intimidation of judge, juror, witness, or attorney—Obstruction of justice

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of *[intimidating a ________(judge or juror or witness or attorney) or obstruction of justice].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* unlawfully threatened or used force or abused or attempted to intimidate or influence;

3. *[Name of (judge or juror or potential juror or witness or attorney or other officer)]*, *[before or after]* the discharge of his/her duties; and

4. Impeded the administration of justice in *[name of court]*;

5. By *[state facts showing use of ______(threats or force or abuse)]*, to intimidate or influence *[name]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-55.

§ 10:6 Perjury—Definition

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of perjury.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* willfully and corruptly and unlawfully swore or affirmed falsely under oath or affirmation or declaration before name of court was duly authorized to take such oath or affirmation or declaration;

3. That *[state essence of allegedly false testimony/oath]*;

4. Which pertained to a matter deemed material by the court; and

5. *[Defendant's name] [swore or affirmed]* this statement knowing it to be false; and

6. If you believe that the *[testimony of (name) and (name) or testimony of (name)]* and the supporting evidence of *[state evidence]* show(s) the statement of *[defendant's name]* to be false;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 97-9-59, 99-7-39.

§ 10:7 Subornation of perjury

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of subornation of perjury.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully or corruptly procured the commission of perjury from *[name of witness]* by *[statement of facts]*;
3. With *[witness' name]* being at the time a legally sworn or examined witness in *[state the case or matter in which the witness was sworn]*; and
4. *[Witness' name]* falsely *[swore or affirmed]* of a material matter that *[state the essence of the false testimony]*, when in fact the truth was that *[state the truth of the matter]*; and
5. *[Defendant's name]* and *[witness' name]*knew that the testimony procured was false;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]*not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 97-9-63, 99-7-41.

§ 10:8 Bribery to procure perjury

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of bribery to procure perjury.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully offered the valuable consideration of *[statement of value offered]*;
3. To *[witness' name]* a *[witness or possible witness]* in the *[cause or matter or proceeding]* of *[description of matter or proceeding]*;
4. In an unlawful and corrupt attempt to procure false testimony from *[witness' name]*;
5. With both *[defendant's name]* and *[witness' name]* knowing of the falsity of the procured testimony;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-65.

§ 10:9 Resisting or obstructing arrest

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of resisting or obstructing arrest.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about ________ *[date of offense]* in ________ *[county of offense]* ________ *[Judicial District, if applicable]*;
2. *[Name of defendant]* unlawfully resisted or obstructed *[his/her]* arrest by *[name of arresting authority]* by *[description of actions]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-73.

§ 10:10 Obstruction of justice—Definition of giving criminal assistance

IN THE *[NAME OF COURT]* OF *[NAME OF COUNTY]*,
MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

Giving criminal assistance is when a person knowingly and unlawfully:

(a) harbors or conceals *[name of other person]*;

(b) warns *[name of other person]* of *[his/her]* impending discovery or apprehension;

(c) provides or aids in providing *[name of other person]* with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension;

(d) prevents or obstructs, by means of force, deception, or intimidation, *[name of person]* from performing an act that might aid in the discovery, apprehension, prosecution or conviction of *[name of person]*;

(e) suppresses, by an act of concealment, alteration, or destruction, any physical evidence that might aid in the discovery, apprehension, or conviction of *[name of person]*;

(f) threatens, harasses, or intimidates *[name of witness]*, a witness or a person reasonably expected to be a witness in a criminal prosecution, in an effort to prevent the person from testifying, giving evidence or assisting law enforcement in any way;

(g) provides false testimony, under oath, to the government about *[name of person]*'s knowledge or lack of knowledge of any criminal activity or information or investigation;

(h) provides false information, under oath, or signs an affidavit with false information exonerating or incriminating another person; or

(i) attempts to prevent law enforcement from discovering facts relating to *[name of person]*'s criminal activity or engages in acts designed to interfere with or prevent a law enforcement investigation of another person.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-103.

§ 10:11 Obstruction of justice—Hindering prosecution of a felony

IN THE *[NAME OF COURT]* OF *[NAME OF COUNTY]*,
MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with hindering prosecution.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of incident]*, in *[name of county]*;

2A. *[Name of defendant]* knowingly and unlawfully rendered criminal assistance to *[name of person]*, with the intent to hinder apprehension, prosecution, conviction or punishment of *[name of person]* for conduct constituting a felony, by

(a) harboring or concealing *[name of other person]*;

(b) warning *[name of other person]* of *[his/her]* impending discovery or apprehension;

(c) providing or aiding in providing *[name of other person]* with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension;

(d) preventing or obstructing, by means of force, deception, or intimidation, *[name of person]* from performing an act that might aid in the discovery, apprehension, prosecution or conviction of *[name of person]*;

(e) suppressing, by an act of concealment, alteration, or destruction, any physical evidence that might aid in the discovery, apprehension, or conviction of *[name of person]*;

(f) threatening, harassing, or intimidating *[name of witness]*, a witness or a person reasonably expected to be a witness in a criminal prosecution, in an effort to prevent the person from testifying, giving evidence or assisting law enforcement in any way;

(g) providing false testimony, under oath, to the government about *[name of person]*'s knowledge or lack of knowledge of any criminal activity or information or investigation;

(h) providing false information, under oath, or signing an affidavit with false information exonerating or incriminating another person; or

(i) attempting to prevent law enforcement from discovering facts relating to *[name of person]*'s criminal activity or engaging in acts designed to interfere with or prevent a law enforcement investigation of another person;

OR

2B. *[Name of defendant]* intentionally and unlawfully prevented or attempted to prevent law enforcement from discovering facts relating to *[name of person]*'s criminal activity or engaged in acts designed to interfere with, or prevent, a law enforcement investigation of *[name of person]*;

OR

2C. *[Name of defendant]* intentionally and unlawfully provided false information, under oath, or signed an affidavit with false information exonerating or incriminating another person, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-105.

§ 10:12 Obstruction of justice—Hindering prosecution of a misdemeanor

IN THE *[NAME OF COURT]* OF *[NAME OF COUNTY]*,
MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with hindering prosecution.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of incident]*, in *[name of county]*;
2. *[Name of defendant]* knowingly and unlawfully rendered criminal assistance to *[name of person]*, with the intent to hinder apprehension, prosecution, conviction or punishment of *[name of person]* for conduct constituting a misdemeanor, by

    (a) harboring or concealing *[name of other person]*; or

    (b) warning *[name of other person]* of *[his / her]* impending discovery or apprehension; or

    (c) providing or aiding in providing *[name of other person]* with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or

    (d) preventing or obstructing, by means of force, deception, or intimidation, *[name of person]* from performing an act that might aid in the discovery, apprehension, prosecution or conviction of *[name of person]*; or

    (e) suppressing, by an act of concealment, alteration, or destruction, any physical evidence that might aid in the discovery, apprehension, or conviction of *[name of person]*; or

    (f) threatening, harassing, or intimidating *[name of witness]*, a witness or a person reasonably expected to be a witness in a criminal prosecution, in an effort to prevent the person from testifying, giving evidence or assisting law enforcement in any way; or

(g) providing false testimony, under oath, to the government about *[name of person]*'s knowledge or lack of knowledge of any criminal activity or information or investigation; or

(h) providing false information, under oath, or signing an affidavit with false information exonerating or incriminating another person; or

(i) attempting to prevent law enforcement from discovering facts relating to *[name of person]*'s criminal activity or engaging in acts designed to interfere with or prevent a law enforcement investigation of another person, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-107.

§ 10:13 Obstruction of justice—Bribing a witness

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with bribing a witness.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of incident]*, in *[name of county]*;
2. *[Name of defendant]* intentionally and unlawfully *[offered / gave / agreed]* to give *[description of gift]* to *[name of witness]*, who was a witness or a person who may have been called to be a witness in an official proceeding; and
3. When *[name of defendant]* intentionally and unlawfully

[offered/gave/agreed] to give *[description of gift]* to *[name of witness]*, who was a witness or a person who may have been called to be a witness in an official proceeding, *[name of defendant]* intended to (1) influence *[name of witness]*'s testimony; (2) encourage *[name of witness]* to avoid a summons to testify; or (3) encourage *[name of witness]* not to attend a proceeding which *[he/she]* had been summoned to attend, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-109.

§ 10:14 Obstruction of justice—Receiving a bribe by a witness

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with receiving a bribe by a witness.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of incident]*, in *[name of county]*;
2. *[Name of defendant]* was a witness or a person who may have been called to be a witness in an official proceeding; and
3. *[Name of defendant]* intentionally and unlawfully *[asked for/accepted/agreed to accept] [description of gift]* with the understanding that *[(1) [name of defendant]'s testimony would be influenced; (2) [name of defendant] would be encouraged to avoid a summons to testify; or (3) [name of defendant] would be encouraged not to attend a proceeding which [he/she] had been summoned to attend]*, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-111.

§ 10:15 Obstruction of justice—Intimidating a witness

IN THE *[NAME OF COURT]* OF *[NAME OF COUNTY]*,
MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with intimidating a witness.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of incident]*, in *[name of county]*;

2A. *[Name of defendant] [intentionally / knowingly]* and unlawfully attempted by use of a threat directed to *[name of witness]*, a witness or a person *[name of defendant]* believed would be called as a witness in any official proceedings, to

(1) influence the testimony of *[name of witness]*;

(2) induce *[name of witness]* to avoid legal process summoning *[him / her]* to testify; or

(3) induce *[name of witness]* to absent *[himself / herself]* from an official proceeding to which *[he / she]* has been legally summoned;

OR

2B. *[Name of defendant] [intentionally / knowingly]* and unlawfully harassed or intimidated, or attempted to threaten, harass or intimidate, *[name of witness]*, a witness or a person reasonably expected to be a witness;

OR

2C. *[Name of defendant] [intentionally / knowingly]* and unlawfully attempted to influence the testimony of *[name of witness]*, a witness or a person reasonably expected to be a witness, by rendering criminal assistance to *[name of person]* being investigated for or charged with criminal activity, by

(1) harboring or concealing *[name of person]*; or

(2) warning *[name of person]* of *[his/her]* impending discovery or apprehension; or

(3) providing or aiding in providing *[name of person]* with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or

(4) preventing or obstructing, by means of force, deception, or intimidation, *[name of person]* from performing an act that might aid in the discovery, apprehension, prosecution or conviction of *[name of person]*; or

(5) suppressing, by an act of concealment, alteration, or destruction, any physical evidence that might aid in the discovery, apprehension, or conviction of *[name of person]*; or

(6) threatening, harassing, or intimidating *[name of witness]*, a witness or a person reasonably expected to be a witness in a criminal prosecution, in an effort to prevent *[name of witness]* from testifying, giving evidence or assisting law enforcement in any way; or

(7) providing false testimony, under oath, to the government about *[name of person]*'s knowledge or lack of knowledge of any criminal activity or information or investigation; or

(8) providing false information, under oath, or signing an affidavit with false information exonerating or incriminating another person; or

(9) attempting to prevent law enforcement from discovering facts relating to *[name of person]*'s criminal activity or engaging in acts designed to interfere with or prevent a law enforcement investigation of another person;

OR

2D. *[Name of defendant] [intentionally/knowingly]* and unlawfully solicited, encouraged, or requested *[name of witness]* to provide false information intended to defeat or defend against an existing criminal charge or to hinder or interfere an ongoing investigation of a criminal act,

then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-113.

§ 10:16 Obstruction of justice—Tampering with a witness

IN THE *[NAME OF COURT]* OF *[NAME OF COUNTY]*,
MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with tampering with a witness.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of incident]*, in *[name of county]*;

2A. *[Name of defendant]* *[intentionally/knowingly]* and unlawfully attempted to induce *[name of witness]*, a witness or a person reasonably believed would be called as a witness in any official proceeding to

(1) Testify falsely or unlawfully withhold testimony; or

(2) Absent *[himself/herself]* from any official proceeding to which *[he/she]* has been legally summoned;

OR

2B. *[Name of defendant]* intentionally and unlawfully solicited, encouraged, threatened, harassed, or intimidated or attempted to solicit, encourage, threaten, harass, or intimidate *[name of witness]* in an effort to prevent or dissuade *[name of witness]* from testifying or to provide a false version of events exonerating or incriminating another person of commission of a crime,

then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-115.

§ 10:17 Obstruction of justice—Bribing a judge

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with bribing a judge.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of alleged crime]*, in *[name of county]*;
2. *[Name of defendant]* intentionally and unlawfully *[offered / gave / agreed]* to give *[description of gift]* to *[name of judge]*; and
3. When *[name of defendant]* intentionally and unlawfully *[offered / gave / agreed]* to give *[description of gift]* to *[name of judge]*, *[name of defendant]* intended to influence *[name of judge]*'s *[vote / decision / discretion / other judicial function]*, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-116.

§ 10:18 Obstruction of justice—Bribing a juror

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with bribing a juror.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of crime]*, in *[name of county]*;

2. *[Name of defendant] [intentionally / knowingly]* and unlawfully *[offered / conferred / gave / agreed / attempted]* to give *[description of gift]* to *[name of juror]*, intending to influence *[name of juror]*'s *[vote / opinion / decision / other action as a juror]*,
then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-117.

§ 10:19 Obstruction of justice—Receiving a bribe by a juror

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with receiving a bribe by a juror.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of alleged crime]*, in *[name of county]*;
2. *[Name of defendant]* was a juror; and
3. *[Name of defendant]* intentionally and unlawfully *[asked for / accepted / agreed to accept] [description of gift]* with the understanding that *[name of defendant]*'s *[vote / opinion / decision / [description of action]]* would be influenced, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-119.

§ 10:20 Obstruction of justice—Intimidating a juror

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with intimidating a juror.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of crime]*, in *[name of county]*;
2. *[Name of defendant]* *[intentionally / knowingly]* and unlawfully attempted, by the use of a threat, harassment, or intimidations, to influence *[name of juror]*'s vote, opinion, decision or other action as a juror,

then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-121.

§ 10:21 Obstruction of justice—Tampering with a juror

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with tampering with a juror.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of alleged crime]*, in *[name of county]*;

2. *[Name of defendant]* intentionally and unlawfully communicated or attempted to communicate with *[name of juror]*, who was a juror, by *[description of alleged actions]*;

3. In order to influence *[name of juror]*'s *[vote/opinion/decision/other action as a juror]*, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]*count

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-123.

§ 10:22 Obstruction of justice—Tampering with evidence

IN THE *[NAME OF COURT]* OF *[NAME OF COUNTY]*,
MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with tampering with evidence.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of incident]*, in *[name of county]*;

2A. *[Name of defendant]*, believing that an official proceeding was pending or could be instituted, intentionally and unlawfully destroyed, mutilated, concealed, removed, or altered physical evidence with the intent to impair its use, verity, or availability in the pending criminal investigation or prospective official proceeding;

OR

2B. *[Name of defendant]*, believing that an official proceeding was pending or could be instituted, knowingly and unlawfully made, presented, or offered false physical evidence with the intent that it be introduced in the pending or prospective official proceeding;

OR

2C. *[Name of defendant]*, believing that an official proceeding was pending or could be instituted, intentionally and unlawfully prevented the production of physical evidence by an act of force, intimidation, or deception against *[name of person]*, or threatened, harassed, or intimidated *[name of witness]*, a witness or a person *[name of defendant]* reasonably believed may be a witness in a criminal investigation to not provide physical evidence or to hide, destroy, or alter physical evidence;

OR

2D. *[Name of defendant]*, believing that an official proceeding was pending or could be instituted, intentionally and unlawfully solicited, encouraged, or assisted *[name of person]* to destroy, hide, or conceal evidence if it was reasonably likely that the state or federal authorities would use the evidence during the prosecution of a criminal act,

then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-125.

§ 10:23 Obstruction of justice—Retaliation

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with retaliation.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of alleged crime]*, in *[name of county]*;

2. *[Name of defendant]* intentionally and unlawfully harmed or threatened to harm *[name of person]* in retaliation for *[description of act]*, which was done in *[name of person]*'s official capacity as a *[public servant/witness/potential witness/informant]*, then you shall find *[name of defendant]* guilty as charged.

If the State has failed to prove any one of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-127.

Chapter 11

Offenses Involving Public Officials

§ 11:1 Bribery
§ 11:2 Acceptance of a bribe
§ 11:3 Embezzlement—Wrongful act as to public money or property
§ 11:4 —Failure to pay over money or deliver property
§ 11:5 —Willful or bad faith refusal to deliver materials to successor in office
§ 11:6 —False entry with intent to defraud—Public official
§ 11:7 —Certifying or endorsing false warrant—Public official
§ 11:8 —Unauthorized loan of public money or property with intent to defraud—Public official

Research References

West's Key Number Digest

Bribery 🔑1 to 3, 6 to 14; Criminal Law 🔑31 to 82, 304 to 572, 769 to 868; Embezzlement 🔑1 to 24, 36 to 48; Officers and Public Employees 🔑120 to 122

Legal Encyclopedias

Am. Jur. 2d, Extortion, Blackmail, and Threats §§ 7 to 19

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 11:1 Bribery

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of bribery.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* unlawfully *[promised/offered/gave]* *[money/goods/chattels/rights in action/real property/personal property/[description of gift]]* to:

3. *[Name of party]*, who at the time of the incident was:

[EITHER:]

A *[public/private]* *[officer/agent/trustee]* of *[name of office]*;

[OR:]

[A candidate/An applicant] for a *[public/private]* *[office/agency/trustee]*;

[OR:]

The spouse of *[name of party]*, a *[public/private]* *[officer/agent/trustee]*;

[END OF CHOICES]

4. With the intent to influence the vote, opinion, action or judgment of *[name of party]*, a *[public/private]* *[officer/agent/trustee]* on a question, matter, cause or proceeding which (1) was pending or (2) may have been subject to *[name of person]*'s vote, opinion, action or judgment,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 97-11-11, 97-11-53.

§ 11:2 Acceptance of a bribe

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of acceptance of a bribe.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2.
   A. *[Name of defendant]* unlawfully accepted *[a gift/an offer/a promise]* of *[money/goods/rights in action/real/personal property]*; or
   B. *[Name of defendant]* knowingly and unlawfully consented to *[his/her]* spouse's acceptance of *[a gift/an offer/a promise]* of *[goods/chattels/rights in action/real/personal property]*;
3. When *[name of defendant]* was a *[public/private] [officer/[name of office]/agent/trustee]*;
4. With the intent of influencing his/her ________ *[vote or judgment or action or opinion]* on;
5. A ________ *[question or matter or cause or proceeding]* which ________ *[was pending or may have been]* subject to his/her ________ *[vote or judgment or action or opinion]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 97-11-13, 97-11-53.

§ 11:3 Embezzlement—Wrongful act as to public money or property

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of embezzlement.

If you find from all the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* was *[description of official capacity]*; and
3. *[Name of defendant]* was entrusted with *[public moneys / securities / stocks / [description of property]]* by virtue of *[his / her]* office as *[name of office]*; and
4. *[Name of defendant]*, by *[[description of act] / [description of omission]]*, did unlawfully attempt to defraud or defraud the *[[name of state] / [name of municipality]]* of *[moneys / securities / stocks / [description of property]]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-11-29.

§ 11:4 Embezzlement—Failure to pay over money or deliver property

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of embezzlement.

If you find from all the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* was *[title of defendant]*; and
3. *[Name of defendant] [received/was entrusted with] [description of items]* belonging to *[name of owner]*, which *[name of defendant]* was legally entitled to possess, in *[his/her]* capacity as *[title of defendant]*; and
4. *[Statement of facts]*; and

[EITHER:]

5. *[Name of defendant]* unlawfully *[failed/refused]* to immediately *[pay over/deliver]* the *[description of items]*, and there was no reasonable explanation for *[name of defendant]*'s *[failure/refusal]* to *[pay over/deliver]* the *[description of items]*,

[OR:]

5. *[Name of defendant]*, without the authority and consent of *[name of owner]*, unlawfully converted the *[description of items]* to *[name of defendant]*'s own use,

[END OF CHOICES]

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-11-25.

§ 11:5 Embezzlement—Willful or bad faith refusal to deliver materials to successor in office

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of embezzlement.

If you find from all the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* was *[title of defendant]* of *[[name of state]/[name of municipality]]*; and
3. *[Name of defendant]* received or was entrusted with *[description of items]* belonging to *[name of owner]*; and
4. *[Name of defendant]* was *[statement of facts]*; and
5. Demand was made upon *[name of defendant]* to *[deliver/pay over]* to *[name of authorized representative]* said *[description of items]*; and
6. *[Name of defendant]* willfully and unlawfully, and not in good faith, refused or neglected to deliver the *[description of items]* to *[name of authorized representative]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-11-27.

§ 11:6 Embezzlement—False entry with intent to defraud—Public official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of embezzlement.

If you find from all the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* was *[title of defendant]* of the *[[name of state]/[name of municipality]]*; and
3. *[Name of defendant]* unlawfully made or caused to be made an entry into *[name of document]* by *[description of actions]*; and
4. The entry made or caused to be made by *[name of defendant]* was false; and
5. *[Name of defendant]* knew the entry was false and made the entry with the intent to defraud *[[name of state]/[name of municipality]]* of *[description of items]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-11-29.

§ 11:7 Embezzlement—Certifying or endorsing false warrant—Public official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of embezzlement.

If you find from all the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* was *[title of defendant]* of *[[name of state]/[name of municipality]]*; and
3. *[Name of defendant]* unlawfully certified or endorsed as genuine a warrant on the *[description of entity]* made on *[date of execution]* in the total sum of $*[dollar amount of sum]*; and
4. The warrant certified or endorsed by *[name of defendant]* was in fact not genuine; and
5. *[Name of defendant]* knew that the warrant that defendant certified or endorsed was not genuine; and

6. *[Name of defendant]* certified or endorsed the warrant with the intent to defraud *[description of entity]* of the sum of $*[dollar amount of sum]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-11-29.

§ 11:8 Embezzlement—Unauthorized loan of public money or property with intent to defraud—Public official

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of embezzlement.

If you find from all the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* was *[title of defendant]* of *[[name of state]/[name of municipality]]*; and

3. *[Name of defendant]* was entrusted with *[description of property]* by virtue of defendant's office as *[title of defendant]* of *[[name of state]/[name of municipality]]*; and

4. *[Name of defendant]*, without the authority and consent of *[name of agency]*, unlawfully loaned this *[description of property]* to *[name of borrower]* for the purpose of *[description of purpose]*; and

5. *[Name of defendant]* loaned this *[description of property]* with the intent to defraud the *[name of agency]* of this property,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the

above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-11-29.

Chapter 12

Offenses Affecting Property

§ 12:1 Arson—First degree—Burning dwelling house or outbuilding
§ 12:2 — —Burning school building
§ 12:3 — —Failure to report accidental fire at school building
§ 12:4 —Second degree—Burning of any building
§ 12:5 —Third degree—Burning personal property
§ 12:6 —Fourth degree—Willful and malicious attempt to burn
§ 12:7 —Setting a fire to woods, marsh, or meadow—Felony
§ 12:8 — —Misdemeanor
§ 12:9 — — —Definition of reckless and gross negligence
§ 12:10 Arson of insured property
§ 12:11 Aggravated assault upon a fire fighter—Intentional or unintentional injury to fire fighter caused by arson
§ 12:12 Burglary—Breaking and entering a dwelling
§ 12:13 —Breaking and entering a dwelling with a deadly weapon
§ 12:14 —Breaking and entering a dwelling with circumstances likely to terrorize
§ 12:15 —Breaking out of a dwelling
§ 12:16 —Breaking inner door of dwelling by one lawfully in house
§ 12:17 —Buildings other than a house
§ 12:18 Possession of burglar's tools
§ 12:19 Burglary with explosives
§ 12:20 Grand larceny
§ 12:21 Larceny by severing crops, fences, or improvements
§ 12:22 Larceny by stealing livestock
§ 12:23 Larceny by stealing timber
§ 12:24 Larceny by tenants in common
§ 12:25 Larceny of property obtained by lease or rental agreement
§ 12:26 Receiving stolen property
§ 12:27 Looting
§ 12:28 Injuring or destroying cemetery property, churches, schools, or public buildings
§ 12:29 Injuring or defacing cemetery property, churches, schools, or public buildings

§ 12:30 Removing out of state property subject to lien
§ 12:31 Removing property subject to legal seizure—Intent to prevent seizure

Research References

West's Key Number Digest

Arson 🔑1 to 41; Burglary 🔑1 to 47; Criminal Law 🔑31 to 82, 304 to 572, 769 to 868; Larceny 🔑1 to 69; Robbery 🔑1 to 22, 25 to 27

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 12:1 Arson—First degree—Burning dwelling house or outbuilding

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of arson in the first degree in burning a dwelling house or outbuilding.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* willfully and maliciously and unlawfully;

3. *[Set fire to or Burned or Caused to be burned or Aided, advised, or induced the burning of]*;

4. *[Name the building burned]*; and

5. That building was *[a or an] [occupied or unoccupied or vacant] [dwelling house or kitchen or shop or barn or stable or outhouse]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-1.

§ 12:2 Arson—First degree—Burning school building

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of arson in the first degree by burning a state-supported school building.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* willfully and maliciously and unlawfully;

3. *[Set fire to or Burned or Caused to be burned or Was a party to the destruction by explosion from combustible material or Aided, advised, or induced the burning or destruction of]*;

4. *[The building burned or destroyed]*; and

5. That property was a state-supported school building;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-3.

§ 12:3 Arson—First degree—Failure to report accidental fire at school building

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of arson in the first degree by not reporting an accidental fire caused by the defendant which resulted in the destruction of a state-supported school building.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* observed or witnessed;
3. The destruction by fire of ________ *[name building burned]*;
4. Which was a state-supported school building; and
5. Such fire was the result of the defendant's accidental act; and
6. *[Name of defendant]* did willfully and unlawfully fail to sound the general alarm or report the fire to the local fire department or other authorities,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-3.

§ 12:4 Arson—Second degree—Burning of any building

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. } NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of arson in the second degree.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* willfully and maliciously and unlawfully;
3. ________ *[Burned or Caused to be burned or Aided, advised, or induced the burning of]*;
4. Any building;
5. Regardless of whether he owned the property or not;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

This section includes all property not described in §§ 97-17-1 and 97-17-3 which are buildings or structures.

Miss. Code Ann. § 97-17-5.

§ 12:5 Arson—Third degree—Burning personal property

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. } NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of arson in the third degree.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* willfully and maliciously and unlawfully;
3. ________ *[Set fire to or Burned or Caused to be burned or Aided, advised, or induced the burning of]*;
4. Personal property of ________ *[name of owner other than defendant]*;
5. Valued at $25 or more;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-7.

§ 12:6 Arson—Fourth degree—Willful and malicious attempt to burn

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of arson in the fourth degree.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* willfully and maliciously and unlawfully attempted to:

3. ________ *[Set fire to or Burn or Aid, advise, or induce the burning of]*;
4. ________ *[Name building or property]*;
5. But ________ *[failed to commit or was prevented from committing]* such act;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-9.

§ 12:7 Arson—Setting a fire to woods, marsh, or meadow—Felony

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of arson of firing woods.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* willfully and maliciously and unlawfully;
3. Set on fire;
4. ________ *[Description of property]*;
5. Such property being ________ *[woods or meadow or marsh or field or prairie]* and not owned by the defendant;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-13(1). Please see Mississippi Criminal Jury Instruction § 12:9 for the offense of misdemeanor setting fire to woods, marsh, or meadow.

§ 12:8 Arson—Setting a fire to woods, marsh, or meadow—Misdemeanor

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of misdemeanor arson of woods, marsh, or meadow.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* recklessly or with gross negligence and unlawfully;
3. Caused fire to burn;
4. ________ *[Description of property]*;
5. Such property being ________ *[woods or meadow or marsh or field or prairie]* and not owned by the defendant;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-17-13(2)(a).

§ 12:9 Arson—Setting a fire to woods, marsh, or meadow—Misdemeanor—Definition of reckless and gross negligence

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

You are instructed that reckless and gross negligence as it pertains to the offense of setting a fire to woods, marsh, or meadow shall be when a person has a brush or debris pile or other material which was being burned and reasonable and prudent efforts were not taken to prevent the spread of the fire onto the lands of another.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-17-13(2)(b).

§ 12:10 Arson of insured property

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of arson of insured property.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* willfully and unlawfully and with intent to injure or defraud *[name of insurer]*;
3. ________ *[Set fire to or Burned or Attempted to burn or set fire to or Aided, advised or induced the burning of]*;
4. ________ *[Name the property in question]*;

5. Which at the time was insured against loss or damage by fire;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-11.

§ 12:11 Aggravated assault upon a fire fighter—Intentional or unintentional injury to fire fighter caused by arson

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of aggravated assault upon a fire fighter.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* willfully and maliciously and unlawfully;
3. ________ *[Set fire to or Burned or Aided, advised, or induced the burning of]*;
4. ________ *[Name the property burned]*; and
5. Thereby intentionally or unintentionally caused serious bodily injury to a fire fighter acting within the scope of the fire fighter's duties;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-14.

§ 12:12 Burglary—Breaking and entering a dwelling

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI		
V.	}	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]		

[Name of defendant] has been charged in count *[number of count]* with the offense of burglary of a dwelling.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* did unlawfully break and enter;
3. The *[dwelling house/inner door of a dwelling house]* of *[name of house dweller]* located at *[address of dwelling house]*;
4. With the intent to commit the crime of *[description of crime]* once inside;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-23(1). For the definition of breaking, see Mississippi Criminal Jury Instruction § 3:5. For the definition of entering, see Mississippi Criminal Jury Instruction § 3:17.

§ 12:13 Burglary—Breaking and entering a dwelling with a deadly weapon

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

[Name of defendant] has been charged in count *[number of count]* with the offense of burglary of a dwelling with a deadly weapon.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* did unlawfully break and enter, armed with *[description of weapon]*, a deadly weapon;
3. The *[dwelling house/inner door of a dwelling house]* of *[name of house dweller]* located at *[address of dwelling house]*;
4. With the intent to commit the crime of *[description of crime]* once inside;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-23(1). Section 97-17-23(1) allows a defendant to be found guilty of burglary whether the defendant was armed with a deadly weapon or not.

For the definition of breaking, see Mississippi Criminal Jury Instruction § 3:5. For the definition of entering, see Mississippi Criminal Jury Instruction § 3:17.

§ 12:14 Burglary—Breaking and entering a dwelling with circumstances likely to terrorize

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

[Name of defendant] has been charged in count *[number of count]* with the offense of burglary of a dwelling under circumstances likely to terrorize a person who is occupying the house.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* did unlawfully break and enter;
3. The *[dwelling house/inner door of a dwelling house]* of *[name of house dweller]* located at *[address of dwelling house]*;
4. With the intent to commit the crime of *[description of crime]* once inside; and
5. Under circumstances likely to terrorize *[name of victim]* who was actually occupying the house at the time of the criminal invasion by *[description of means likely to terrorize]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-23(2). Section 97-17-23(2) provides for a sentence enhancement under circumstances likely to terrorize an occupant.

For the definition of breaking, see Mississippi Criminal Jury Instruction § 3:5. For the definition of entering, see Mississippi Criminal Jury Instruction § 3:17.

§ 12:15 Burglary—Breaking out of a dwelling

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of burglary by breaking out of a dwelling.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* was in the dwelling house of *[name of dweller]*, located at *[address of dwelling]*; and

3. Therein committed ________ *[description of crime]*; and
4. Did unlawfully break any part of the house to get out of the same,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-25.

§ 12:16 Burglary—Breaking inner door of dwelling by one lawfully in house

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of burglary by breaking an inner door of a dwelling by one lawfully in the house.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* was in the dwelling house of *[name of dweller]*, located at *[address of dwelling]*; and
3. Unlawfully broke an inner door of the same house;
4. With the intent to commit ________ *[description of crime]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-29.

§ 12:17 Burglary—Buildings other than a house

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

A. *[Name of defendant]* has been charged in count number *[number of count]* with the offense of burglary by breaking and entering a building other than a dwelling building.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* did unlawfully break and enter *[specification of place]*, being *[a/an] [description of building]*;
3. Being where any valuable thing was kept for use, sale, deposit or transportation;
4. With the intent to *[steal therein the goods and valuables/ commit the felony of [specification of felony]]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

B. *[Name of defendant]* has been charged in count number *[number of count]* with the offense of burglary of a building within the grounds of a dwelling house.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* did unlawfully break and enter;
3. *[A/An] [description of building]*, which is not joined or connected to the main house, but is on the immediate grounds of the dwelling house of *[name of person]*, located at *[address of building]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-33.

§ 12:18 Possession of burglar's tools

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of possession of burglar's tools.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully had in *[his/her]* possession *[description of tools]*;
3. Designed or intended to aid ________ *[defendant's name]* in the commission of a burglary, larceny, or robbery;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-35.

§ 12:19 Burglary with explosives

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of burglary with explosives.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* did unlawfully break and enter *[name of building]*, the property of *[name of owner]*, located at *[address of building]*;
3. With the intent to commit the crime of ________ *[description of crime]*; and
4. Opened or attempted to open a ________ *[safe or vault]* ________ *[description of secure place]* by the use of ________ *[dynamite or gunpowder or nitroglycerin or an explosive]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-37.

§ 12:20 Grand larceny

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[number of count* with grand larceny.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. Without consent of *[name of victim]* and with the intent to deprive *[name of victim]* of the property;
3. *[Name of defendant]* unlawfully took and carried away;
4. *[Description of allegedly stolen personal property]*, the personal property of *[name of victim]*;
5. Having a value of *[specification of value of personal property pursuant to § 97-17-41]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of *[number of count*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-41.

§ 12:21 Larceny by severing crops, fences, or improvements

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of larceny by severing crops, or parts of improvements or inclosure.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully severed;
3. *[specification of produce growing from the soil of another or any part of a building, gate, fence, railing, or other improvement, or enclosure]*, with a value of *[description of value]*; and
4. Took and converted such to the defendant's own use;
5. With intent to steal the same;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 97-17-41 and 97-17-47.

§ 12:22 Larceny by stealing livestock

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]
NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count number *[number of count]* with the offense of larceny by stealing livestock.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* knowingly, willfully, feloniously and unlawfully took, stole and carried away;
3. Livestock, with a value of *[specification of value of property pursuant to § 97-17-41 or § 97-17-43]* belonging to *[name of owner]*;
4. Without the consent of *[name of owner]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count number *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-53. See §§ 97-17-41 and 97-17-43.

§ 12:23 Larceny by stealing timber

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the ________ *[felony or misdemeanor]* offense of larceny by stealing timber.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* knowingly and willfully and unlawfully;
3. Took, stole, and carried away;
4. From the land of ________ *[name of owner]*;
5. Merchantable timber;
6. Valued at *[specification of value of property pursuant to § 97-17-59]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-59.

§ 12:24 Larceny by tenants in common

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the ________ *[felony or misdemeanor]* of larceny by tenants in common.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully [sold/gave away/concealed/converted/disposed of] ;
3. ________ *[Description of property]*;
4. With the intent to defraud ________ *[name]*, being ________ *[a cotenant or jointly interested]* in such property;
5. Such interest of the *[cotenant/jointly interested party]* being *[specification of value of property pursuant to § 97-17-41]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-63. See §§ 97-17-41 and 97-17-43.

§ 12:25 Larceny of property obtained by lease or rental agreement

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the ________ *[felony or misdemeanor]* of larceny under a lease or rental agreement.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* obtained *[description of personal*

property] of *[name of owner]* under a lease or rental agreement; and

3. Thereafter did exercise unlawful and unauthorized control over ________ *[name personal property]*;

4. With the purpose of depriving ________ *[owner's name]* ________ *[permanently or for an extended period]* that caused ________ *[owner's name]* to suffer loss of value, use or benefit of the property by ________ ________ *(concealing or abandoning or disposing of) personal property or ________ (selling or giving or pledging or transferring) any interest in ________ (name of personal property)]*; and

5. The value of *[description of personal property]* was *[specification of value of property pursuant to § 97-17-64]*;

6. Presuming that a purpose to deprive existed, specify (1) when *[name of defendant]* made material misrepresentations in obtaining *[description of property]* or (2) failed to *[return/arrange to return]* *[description of property]* to *[name of owner]* or *[his/her]* agent within ten days after proper notice following the expiration of the term;

7. ________ *[With proper notice meaning actual notification or written demand made by ________ (owner's name) to ________ (defendant's name) for the return of the property]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, or the defendant can show that he/she:

1. ________ *[Was unaware that the property belong to another]*;

2. ________ ________ *(Acted under an honest claim of right to the property or Had the right to the property or Had the right to ________ [acquire or dispose of] it as he/she did)]*;

3. ________ *[Was physically incapacitated and unable to request of ________ (owner's name) the retention of ________ (name of property)]*;

4. ________ *[Could not return the property due to its condition, that condition not being the defendant's fault]*;

then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-64.

§ 12:26 Receiving stolen property

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the ________ *[felony or misdemeanor]* of receiving stolen property.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully bought or received *[description of property]* of the value of *[specification value of property pursuant to § 97-17-70]*;
3. Being the personal property of ________ *[owner's name]*;
4. With knowledge that such property was stolen; or had reasonable grounds to believe it had been stolen;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-70.

§ 12:27 Looting

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of looting.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* knowingly and without authority of law or of the owner;
3. Entered ________ *[address]*, being the ________ *[home or dwelling or premises]* of ________ *[owner's name]* ________ *[a commercial or a mercantile or a business or an industrial]* ________ *[building or plant or establishment]* owned by ________ *[owner's name]*;
4. After ________ *[state event]*, which caused normal security of property to be absent because of this ________ *[hurricane or fire or other natural disaster]* ________ *[riot or mob or other human agency]*; and
5. ________ *[Obtained or Exerted control over or Injured or Removed]*;
6. ________ *[Property affected]*, being the property of the owner;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-65.

§ 12:28 Injuring or destroying cemetery property, churches, schools, or public buildings

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the ________ *[felony or misdemeanor]* of ________ *[injuring or destroying]* ________ *[cemetery property or a public building or a school or a church or property thereof]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* willfully or mischievously and unlawfully;
3. Injured or destroyed;
4. ________ *[Any item in a cemetery]* ________ *[Materials of* ________ *(a court-house or jail or a public building or a schoolhouse or a church)]*; and
5. The destruction or injury caused damage of *[specification of amount of damage pursuant to § 97-17-39]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-39.

§ 12:29 Injuring or defacing cemetery property, churches, schools, or public buildings

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the ________ *[felony or misdemeanor]* of ________ *[injuring or defacing]* ________ *[cemetery property or a public building or a school or a church or property thereof].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* willfully or mischievously and unlawfully;
3. Defaced or injured;

4. ________ *[Walls or parts of public buildings or ________ (Trees or Fences or Pavement or Soil) of public buildings or a tree on public road or street leading to public building]*; and

5. The injury or defacing caused damage of *[specification of amount of damage pursuant to § 97-17-39]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-39.

§ 12:30 Removing out of state property subject to lien

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of removing personal property subject to lien out of state.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* unlawfully moved or caused to be moved to *[specification of place]* outside the state of Mississippi;

3. ________ *[Property moved]*, which was under a ________ *[written pledge or mortgage or deed of trust or conditional sales contract or judgment lien or other lien]* to ________ *[name of interest holder]*;

4. With the intent to defraud ________ *[defrauded party]*; and

5. The property moved was valued at *[specification of value of property pursuant to § 97-17-77]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-17-77.

§ 12:31 Removing property subject to legal seizure—Intent to prevent seizure

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of unlawfully removing property subject to legal seizure.

If you find from the evidence in this case beyond a reasonable doubt that:

1. ________ *[Description of property]* was subject to seizure by virtue of ________ *[name legal process by which property could be seized]*; and
2. *[Name of defendant]* unlawfully removed said property knowing said property was subject to lawful seizure; and
3. *[Name of defendant]* unlawfully removed said property with the intent to prevent the seizure of said property by lawful process,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-9-69.

Chapter 13

False Pretenses

§ 13:1 False personation to marry, become a surety, confess a judgment or acknowledge a deed
§ 13:2 False personation to receive money
§ 13:3 Fraud—Obtaining a signature with intent to deceive
§ 13:4 Misrepresenting the identity of a child with intent to intercept an inheritance
§ 13:5 Receiving deposits into an insolvent bank
§ 13:6 Selling or encumbering property previously sold or encumbered
§ 13:7 Substituting child to deceive parent or guardian
§ 13:8 Bad checks
§ 13:9 —Closing an account

Research References

West's Key Number Digest

Criminal Law ⚷31 to 82, 304 to 572, 769 to 868; False Pretenses ⚷1 to 52

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 13:1 False personation to marry, become a surety, confess a judgment or acknowledge a deed

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of false personation.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

[EITHER:]

2. *[Name of defendant]* falsely and unlawfully represented *[himself/herself]* as *[false name of defendant]*, and using this name, married *[name of spouse]*;

[OR:]

2. *[Name of defendant]* falsely and unlawfully represented *[himself/herself]* as *[false name of defendant]*, and using this name, became a *[bailor/surety]* in a *[criminal/civil]* proceeding before *[name of court]*;

[OR:]

2. *[Name of defendant]* falsely and unlawfully represented *[himself/herself]* as *[false name of defendant]*, and using this name, confessed *[statement of judgment confessed]*;.

[OR:]

2. *[Name of defendant]* falsely and unlawfully represented *[himself/herself]* as *[false name of defendant]*, and using this name, acknowledged the execution of *[description of document]*;

[OR:]

2. *[Name of defendant]* falsely and unlawfully represented *[himself/herself]* as *[false name of defendant]*, and using this name, acted in the *[suit/proceeding/prosecution]* of *[title of proceeding]*, whereby *[name of person represented]* might have *[been made liable for [description of liability]/had [his/her] legal rights affected by [specification of proceeding]]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-19-33.

§ 13:2 False personation to receive money

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of false personation in order to receive *[money or property]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* falsely and unlawfully represented *[himself/herself]* as *[name]*, and using this name;
3. Received *[state money or property received]*;
4. That was intended to be delivered to *[name personated]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-19-35.

§ 13:3 Fraud—Obtaining a signature with intent to deceive

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of fraud.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully obtained the signature of *[name of person]* to *[description of written instrument]* or to *[[statement of money]/[statament of personal property]/[statement of other valuable thing]]*, with a value of *[specification of value of property pursuant to § 97-19-39]* from *[name of person]*;
3. With the intent to cheat or defraud *[name]*;
4. By using the false *[token or writing]* of *[state token or writing falsely used]* to *[state method or acts whereby the defendant used the token or writing to falsely represent a past event or present fact]*; and
5. *[Defendant's name]* knew that *[state token or writing]* was false; and
6. The false representation was the moving cause by which *[name]*'s signature *[state personal property or other valuable thing]* was obtained;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

If the false token used to defraud under this section be a promissory note, or other negotiable evidence of debt, purportedly issued by a person, bank, or corporation not in existence, Miss. Code Ann. § 97-19-41 provides for more severe punishment, although the elements of the crime remain the same.

Miss. Code Ann. § 97-19-39.

Gordon v. State, 458 So. 2d 739 (Miss. 1984).

§ 13:4 Misrepresenting the identity of a child with intent to intercept an inheritance

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]

NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of producing a child with the intent to intercept an inheritance.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* produced a child, *[name of child]*; and
3. Falsely and unlawfully *[pretended/represented]* that the child was the child of *[[name of purported parent]/[name of purported parents]]*;
4. Whose child would have been entitled to ________ *[a share of the personal property of* ________ *(state personal property) or inherit* ________ *(state real estate)]*; and
5. ________ *[Defendant's name]* ________ *[knew or recklessly did not find out]* ________ *[name of infant]*'s true parentage; and
6. Intended to intercept the ________ *[inheritance of* ________ *(state real estate) or distribution of* ________ *(state personal property)]* of which ________ *[name]* was lawfully entitled;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-19-45.

§ 13:5 Receiving deposits into an insolvent bank

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of receiving deposits into an insolvent bank.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. Acting in the defendant's capacity as *[title of defendant]* at *[name of bank]*;
3. *[Name of defendant]* unlawfully accepted or received or allowed to be received the deposit of $*[dollar amount of deposit]* from *[name of depositor]* at which time ________ *[defendant's name]* as an ________ *[owner or officer or employee]* ________ *[knew or had reason to believe]* that ________ *[name of bank]* was insolvent;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

For the meaning of "insolvency" under this section, see Miss. Code Ann. § 81-9-5.

Miss. Code Ann. § 97-19-47.

§ 13:6 Selling or encumbering property previously sold or encumbered

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of selling property previously ________ *[sold or encumbered]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* under false pretenses and with the intent to defraud, unlawfully *[sold / bartered / exchanged / mortgaged / gave a deed of trust on]*;
3. ________ *[State real or personal property]*; which
4. ________ *[Defendant's name]*;
5. ________ *[Had already or Was about to let it be]*;
6. ________ *[Sold or Bartered or Exchanged or Mortgaged or Encumbered]*;
7. Without informing ________ *[name of purchaser or mortgagee]* that the property had been ________ *[act affecting state of the property]*; and
8. ________ *[Name of purchaser or mortgagee]* relied on ________ *[defendant's name]*'s ________ *[silence or false representation]* in making the transaction;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-19-51.

§ 13:7 Substituting child to deceive parent or guardian

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of substituting a child to deceive *[parent(s) or guardian].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. Having been entrusted by *[name of guardian]* with *[name of child 1]*, an infant at the time under the age of six, for *[nursing/education/[description of purpose]]*;
3. *[Name of defendant]* unlawfully substituted and produced *[name of child 2]* to *[name of guardian]*;
4. With the intent to deceive the *[parent(s) or guardian]* into believing that *[name of other child]* was *[his/her/their child]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-19-53.

§ 13:8 Bad checks

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of making a bad check.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully *[made/drew/issued/delivered/authorized]* *[a check/a draft/an order]* to obtain money, delivery of other valuable property, services, or the use of property, or credit extended by any licensed gaming establishment;
3. On *[name of bank]*, a real or fictitious *[bank/corporation/firm/person]*; and

4. *[Name of defendant]* knew at the time of *[making/drawing/issuing/uttering/delivering/authorizing]* the *[check/draft/order]* that there were insufficient funds in or on deposit with *[name of bank/corporation/firm/person]* for the payment in full of the *[check/draft/order]* and all other *[checks/drafts/orders]* then outstanding;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-19-55.

§ 13:9 Bad checks—Closing an account

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of closing an account with fraudulent intent.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully closed *[specification of account]* without leaving sufficient funds to cover all of the outstanding checks which were written on the *[specification of account]*;
3. With fraudulent intent;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-19-55.

Chapter 14

Gambling, Forgery, and Counterfeiting

§ 14:1 Possession of a gambling device
§ 14:2 Forgery of account books in public office
§ 14:3 Forgery of account books of corporation
§ 14:4 False certification of acknowledgment of deed
§ 14:5 Issuing false security, stock or indorsement
§ 14:6 Signing a false name to corporate evidences of debt
§ 14:7 Destroying, erasing, or obliterating a writing deemed a forgery
§ 14:8 Uttering instrument in own name under pretense it is act of another with intent to defraud
§ 14:9 Connecting parts of written instruments to produce one instrument
§ 14:10 Forgery of court documents, licenses, or other instruments
§ 14:11 Possession of counterfeit bank notes or other forged instruments with intent to defraud
§ 14:12 Forgery of court or probate records
§ 14:13 Forgery of official or corporate seal
§ 14:14 Forgery of a treasury warrant
§ 14:15 Forgery of will, deed, or other instrument affecting property rights
§ 14:16 Sale of counterfeit note, check, or other evidence of debt
§ 14:17 Forgery—Engraving plate to print note, check, or other evidence of debt
§ 14:18 —Possession of plate to print note, check, or other evidence of debt
§ 14:19 —Possession of an impression from plate used to alter evidence of debt

Research References

West's Key Number Digest

Counterfeiting 🔑1 to 19; Criminal Law 🔑31 to 82, 304 to 572, 769 to 868; Forgery 🔑1 to 48

Legal Encyclopedias

Am. Jur. 2d, Deeds §§ 167 to 171

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.

Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 14:1 Possession of a gambling device

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of possessing a gambling device.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. Without authority of law, *[name of defendant]* had in the defendant's possession or owned or controlled or displayed or operated;
3. ________ *[Describe the gambling device listed in statute]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

A violation of this section will only be a felony if it is a second or subsequent conviction.

Supplemental Instructions One, Two, and Three should be given when applicable.

SUPPLEMENTAL INSTRUCTION ONE

A slot machine is not a gambling device if the purchaser receives exactly the same quantity of merchandise on each operation of the machine.

A slot machine is an unlawful gambling device if it is a machine which:

1. Delivers, or is constructed to deliver to the operator anything of value in varying quantities, in addition to equal quantities of merchandise received; or

2. Is constructed so that slugs, tokens, coins, or similar devices ______ *[are or may be]* used and are delivered to the operator in addition to the merchandise of any sort contained in such machine.

SUPPLEMENTAL INSTRUCTION TWO

Pinball machines which do not return to the operator or player anything but free additional games or plays, are not gambling devices and are not prohibited by any law.

SUPPLEMENTAL INSTRUCTION THREE

It shall not be unlawful to operate ______ *[state gaming device]* while:

1. On a cruise vessel whenever such vessel is underway in the waters within the State of Mississippi, if not prohibited by vote of the citizens of the county in which the port is located.

2. On a vessel whenever such vessel is on the Mississippi River or navigable waters within any county bordering on the Mississippi River in which the voters have not elected to prohibit such activity.

For a definition of "cruise vessel" as used in this instruction, see Miss. Code Ann. § 27-109-1.

Miss. Code Ann. § 97-33-7.

§ 14:2 Forgery of account books in public office

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of forgery of account books kept in public offices.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* unlawfully made a false entry or falsely altered an entry by *[statement of facts]*;

3. In *[state book of accounts containing the questioned entry]*;
4. That was located in office of *[state public office]*; and
5. *[Defendant's name]* had the intent to defraud;
6. By *[discharging or diminishing or increasing or creating or affecting]* the *[demand or obligation or claim or right or interest]* of *[state village, town, city, county, or this state] [in favor of or against] [name]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-1.

§ 14:3 Forgery of account books of corporation

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. — NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of forgery of account books kept by corporations.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully made a false entry or falsely altered an entry in ________ *[state book of accounts]* of ________ *[state corporation]* by ________ *[state facts showing the making of the false entry]*;
3. Whereby the monetary ________ *[obligation or claim or credit]* of ________ *[describe obligation, claim, or credit]* ________ *[was or was purported to be]* ________ *[discharged or diminished or increased or created or affected]*; and
4. ________ *[Defendant's name]* had the intent to defraud;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-3.

§ 14:4 False certification of acknowledgment of deed

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of false certification.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* was *[description of authority]*, an officer who was authorized to take proof or acknowledgment of any instrument to be recorded; and
3. *[Name of defendant]* willfully and falsely and unlawfully certified that the ________ ________ *(describe instrument) or conveyance of* ________ *(state property) from* ________ *(name) to* ________ *(name)]* was ________ *[proved or acknowledged]*, by ________ *[name]*;
4. When in truth such ________ *[instrument or conveyance]* was not ________ *[proved or acknowledged]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-7.

§ 14:5 Issuing false security, stock or indorsement

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of issuing a false ________ *[public security or public stock or indorsement].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully intended to defraud *[name of party]*;
3. By making a false ________ *[describe writing]* by ________ *[state facts showing the making of the false writing]*;
4. With the ________ *[describe writing]* purported to be;
5. ________ *[Issued under authority of this state's laws or A certificate of public stock created under this state's laws and issued by ________ (name), holder of the public office of ________ (state public office) or Issued by ________ (name), holder of the public office of ________ (state public office) or A transfer of the ________ (right or interest) of ________ (name), a ________ (holder or person entitled to the right of interest of a holder)]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-9.

§ 14:6 Signing a false name to corporate evidences of debt

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of signing a false name to a corporate evidence of debt.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. With the intent to defraud ________ *[name]*;
3. *[Name of defendant]* unlawfully made or forged or counterfeited a false *[description of debt]* issued by the corporation of *[name of corporation]*; and
4. ________ *[Defendant's name]* signed ________ *[describe writing]* as ________ *[name of false signature]*, purporting to be the ________ *[name of officer]* of ________ *[name of corporation]*;
5. Regardless of whether or not ________ *[name of false signature]* was actually ________ *[name of officer]* of ________ *[name of corporation]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-19.

§ 14:7 Destroying, erasing, or obliterating a writing deemed a forgery

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

_______ *[Defendant's name]* has been charged in _______ *[count no.]* with the offense of the _______ *[destruction or erasure or obliteration]* of a writing.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully intended to defraud *[name of party]*;
3. By totally _______ *[erasing or obliterating or destroying]* by _______ *[describe method]*;
4. _______ *[Describe instrument of writing]*;
5. Which _______ *[created or increased or discharged or diminished or affected]* the _______ *[monetary obligation or right or interest or claim to property]* of _______ *[describe obligation, right, etc.]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find _______ *[defendant's name]* not guilty of _______ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-21.

§ 14:8 Uttering instrument in own name under pretense it is act of another with intent to defraud

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of making and uttering an instrument in the defendant's own name under the pretense that it is the act of another of the same name.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully intended to injure or defraud *[name of party]*;
3. By making ________ *[describe instrument]* in the defendant's own name; and
4. ________ *[Defendant's name]* intended to ________ *[create or increase or discharge or defeat or diminish or transfer or affect]* the monetary ________ *[obligation or right or interest]* of ________ *[describe property]*;
5. Under the pretense that the defendant's act was the act of the other ________ *[name of the other person with the same name]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-29.

§ 14:9 Connecting parts of written instruments to produce one instrument

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of forgery by connecting parts of instruments to form one instrument with the intent to defraud.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* took *[description of parts]*, being parts of the genuine instruments *[description of instruments]*; and
3. Unlawfully placed or connected them together in order to produce the one instrument *[description of instrument]*; and
4. By doing so ________ *[defendant's name]* intended to defraud ________ *[name]* by ________ *[state facts showing how defendant intended to use the completed instrument to defraud]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-31.

§ 14:10 Forgery of court documents, licenses, or other instruments

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

_________ *[Defendant's name]* has been charged in _________ *[count no.]* with the offense of forgery of a _________ *[court paper or license or written instrument].*

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully made or altered or forged or counterfeited a false _________ *[name of instrument or writing]* by _________ *[state facts showing how defendant used the false instrument or writing to defraud]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find _________ *[defendant's name]* not guilty of _________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-35.

§ 14:11 Possession of counterfeit bank notes or other forged instruments with intent to defraud

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

_________ *[Defendant's name]* has been charged in _________ *[count no.]* with the offense of forgery by possession of a _________ *[counterfeit bank note or state other instrument]* with the intent to defraud.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully had in the defendant's possession a forged or altered or counterfeited _________ *[de-*

scribe item forged, altered or counterfeited], being a ________ *[negotiable note or bill or draft or ________ (state other evidence of debt)]* ________ *[issued or purported to have been issued]* by ________ *[name of issuer of instrument]*; but

3. Was ________ *[forged or altered or counterfeited]* by ________ *[state facts showing that the instrument was false]*; and
4. ________ *[Defendant's name]* had possession of ________ *[describe item]* knowing that it was ________ *[forged or altered or counterfeited]*; and
5. Intended to ________ *[hold it or cause it to be held]* out as true; and
6. Intended to use it to ________ *[injure or defraud]* ________ *[name]* by ________ *[state how item was intended to defraud]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-37.

§ 14:12 Forgery of court or probate records

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of forgery of a *[record of a will or instrument constituting evidence or judgment or decree of court or return on process]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. With the intent of defrauding *[name of party]*;

[EITHER:]

3. *[Name of defendant]* unlawfully altered or destroyed or corrupted or falsified ____________; *[[description of document] of [name of party]]*;

[OR:]

3. *[Name of defendant]* unlawfully altered or destroyed or corrupted or falsified ____________; the conveyance of *[description of conveyance] ;*

[OR:]

3. *[Name of defendant]* unlawfully altered or destroyed or corrupted or falsified ____________; *[description of process of court]* by *[statement of facts]*;

[END OF CHOICES]

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-45.

§ 14:13 Forgery of official or corporate seal

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of forgery of the ________ *[great seal or seal]* of ________ *[type]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. With the intent to defraud *[name of party]*;

3. *[Name of defendant]* unlawfully forged or counterfeited or made an impression purporting to be the ________ *[great seal or seal]* of ________ *[Mississippi or the name of the office, officer, court, county, city, town, corporation of Mississippi]*;

4. By ________ *[state facts showing defendant made the fake seal]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-47.

§ 14:14 Forgery of a treasury warrant

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of forgery of a warrant on a treasury.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. With the intent to defraud *[name of party]*;

3. *[Name of defendant]* unlawfully made or forged or altered *[description of document]*;

4. ________ *[Being or Purporting to be]* ________ *[a or an]* ________ *[warrant or order]* on the treasury of ________ *[the State of Mississippi or the United States or name of county, city, town or village]*;

5. And ________ *[describe writing]* was ________ *[false or forged or counterfeited]* in that ________ *[describe falsity]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-61.

§ 14:15 Forgery of will, deed, or other instrument affecting property rights

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of forgery of a ________ *[will or deed or certificate of acknowledgment or proof of a recordable instrument]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully forged or counterfeited or altered:
   a. The ________ *[will or deed or* ________ *(describe other instrument)]*, which ________, ________ *[describe above how instrument purported to be act of another by which rights in real or personal property are transferred, changed or affected]*; or
   b. The ________ *[describe* ________ *(certificate or endorsement or acknowledgment) of deed or other instrument]* which by law may be recorded by ________ *[name person or officer duly authorized to make such certificate]*;
3. And the ________ *[will or deed or certificate or indorse-*

ment] which was ________ *[forged or counterfeited or altered]* was ________ *[false or counterfeit or fraudulent]* in that ________ *[describe]*; and

4. ________ *[Defendant's name]* intended with it to defraud ________ *[name]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-63.

§ 14:16 Sale of counterfeit note, check, or other evidence of debt

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. } NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of ________ *[selling or offering to sell]* counterfeit ________ *[state evidence of debt]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully sold or offered to sell or exchanged or delivered for *[description of consideration]*;
3. A ________ *[forged or counterfeit]* ________ *[promissory note or check or bill or draft or* ________ *(state other evidence of debt)]*;
4. To ________ *[name of receiver]*; and
5. ________ *[Defendant's name]* knew that the ________ *[describe item(s)]* ________ *[was or were]* ________ *[forged or counterfeited]*; and

6. Intended for the ________ *[describe item(s)]* to be passed or uttered as genuine;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-49.

§ 14:17 Forgery—Engraving plate to print note, check, or other evidence of debt

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of forgery by engraving a plate for printing an evidence of debt.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully made or caused to have made or engraved;
3. A plate in the form of ________ *[a or an]* ________ *[promissory note or bill of exchange or draft or check or certificate of deposit or ________ (state other evidence of debt)]* issued by ________ *[name of bank]*;
4. Without the authority of ________ *[name of bank]*; and
5. ________ *[Defendant's name]* intended to ________ *[use the plate or have the plate used]* to take an impression that was to be ________ *[passed or sold or altered]* by ________ *[describe acts showing intent to pass, sell, or alter]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-23.

§ 14:18 Forgery—Possession of plate to print note, check, or other evidence of debt

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of forgery by possessing a plate used to alter an evidence of debt.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully had in the defendant's custody or possession a plate;
3. Upon which was engraved the ________ *[figures or words]* of ________ *[describe figures or words]*;
4. Which may be used for the purpose of falsely altering ________ *[describe evidence of debt]* issued by ________ *[name of bank]*; and
5. ________ *[Defendant's name]* intended to have ________ *[describe evidence of debt]* used for such a purpose;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-23.

§ 14:19 Forgery—Possession of an impression from plate used to alter evidence of debt

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]

NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of forgery by possessing an impression of a plate used to alter an evidence of debt.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully had in the defendant's custody or possession an impression made from a plate in the form of ________ *[a promissory note or a bill of exchange or a draft or a check or a certificate of deposit or ________ (state other evidence of debt)]* issued by ________ *[name of bank]*;
3. Without the authority of ________ *[name of bank]*; and
4. ________ *[Defendant's name]* intended to have the impression filled up and completed for the purpose of having it ________ *[passed or sold or uttered]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-21-23.

Chapter 15

Offenses Affecting Trade, Business, or Profession

§ 15:1 Embezzlement by employee, agent, bailee, or trustee
§ 15:2 Embezzlement of evidence of debt
§ 15:3 Receiving or buying embezzled goods
§ 15:4 Embezzlement of property held in trust or received on contract
§ 15:5 Practicing law, medicine, dentistry or pharmacy without a license
§ 15:6 —Second (or third) offense
§ 15:7 Shoplifting
§ 15:8 Illegal possession, sale, barter, or gift of intoxicating beverage

Research References

West's Key Number Digest

Criminal Law 🔑31 to 82, 304 to 572, 769 to 868; Embezzlement 🔑1 to 24, 36 to 48; Racketeer Influenced and Corrupt Organizations 🔑1 to 50, 90 to 98, 100 to 107, 119 to 124

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 15:1 Embezzlement by employee, agent, bailee, or trustee

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	}	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in count *[number of count]* with the offense of embezzlement.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[county of offense]*;
2. *[[Description of goods]/[Description of rights in action]/[Description of valuable security]/[Description of property]/$[Dollar amount of sum]]*, with a value of *[specification of value of property pursuant to § 97-23-19]*, owned by *[name of owner]*, came or was entrusted to Defendant's care or possession by virtue of the defendant's office, position, place, or employment; and
3. *[Name of defendant]*, unlawfully embezzled or fraudulently secreted, concealed, or converted to *[his/her]* own use, or made way with, or secreted with the intent to embezzle or convert to *[his/her]* own use, the *[description of property]* by *[description of actions]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-23-19.

§ 15:2 Embezzlement of evidence of debt

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	}	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of embezzlement of evidence of a debt.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* was an agent of *[name of business]*; and
3. *[Name of defendant]* unlawfully *[embezzled/fraudulently secreted/concealed/converted]* by putting into circulation *[describe property]*, an evidence of debt negotiable by delivery, owned by *[name of owner]*, which was entrusted to *[name of defendant]*'s *[care/possession]* due to the defendant's *[position employment]* as *[description of capacity]*;
4. Which had a value of *[specification of value of property pursuant to § 97-23-19]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-23-21. See Miss. Code Ann. § 97-23-19.

§ 15:3 Receiving or buying embezzled goods

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of *[buying or receiving]* embezzled goods.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully bought or received;

3. *[Description of money, goods, rights in action, valuable security, effects, or property]*, which had been embezzled by *[description of method]*; and

4. *[Defendant's name]*, at the time of *[purchase or receipt* knew that *[description of money, goods, etc.]* had been *[embezzled or taken or secreted]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-23-23.

§ 15:4 Embezzlement of property held in trust or received on contract

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of embezzlement of property *[held in trust or received on contract]*.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;

2. *[Name of defendant]* fraudulently and unlawfully appropriated *[description of personal property]* that belonged to *[name of owner]*;

3. Which had been delivered to him for *[deposit or holding or carrying or repair or contract or loan or hire]* due to *[state position of defendant or relationship]*; and

4. *[Defendant's name] [failed to (deliver or return) (description of property or proceeds) to (name of owner)] (used or disposed of) (description of property or proceeds) (before or after) (defendant's name)'s right to use had (begun or ended)]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 97-23-25 to 97-23-27.

§ 15:5 Practicing law, medicine, dentistry or pharmacy without a license

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of practicing *[description of profession]* without a license.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully practiced *[description of profession]* by *[description of actions]*; and
3. At the time *[name of defendant]* was not examined and licensed to practice *[description of profession]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of count *[number of count].*

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-23-43.

§ 15:6 Practicing law, medicine, dentistry or pharmacy without a license—Second (or third) offense

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]

NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in count *[number of count]* with the offense of practicing *[description of profession]* without a license.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully practiced *[description of profession]* by *[description of actions]*; and
3. At the time *[name of defendant]* was not examined and licensed to practice *[description of profession]*; and
4. *[Name of defendant]* was previously convicted of practicing *[description of profession]* without a license in *[description of previous conviction]* on *[date of previous conviction]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-23-43.

§ 15:7 Shoplifting

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V.
[NAME OF DEFENDANT]

NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of shoplifting.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* willfully and unlawfully took possession of *[description of property]*, which *[was/were]* owned or held by *[name of merchant]*, and offered or displayed for sale;
3. By *[state act(s) tending to show shoplifting]*; and
4. *[Name of defendant]* intended to convert *[description of goods]* to the defendant's own use without paying the purchase price of *[specification of price of good pursuant to § 97-23-93]*;
5. By *[concealing the (describe good) or removing the (describe good) from the store or (altering or removing) the price marking of the (describe good) or transferring the price marking of the (describe good) causing the sales recording device to reflect less than the real price of the (describe good)]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-23-93.

§ 15:8 Illegal possession, sale, barter, or gift of intoxicating beverage

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in count *[number of count]* with the offense of the illegal *[sale or barter or gift or possession]* of an intoxicating beverage.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully sold or bartered or gave away or kept or possessed *[description of beverage]*;
3. Such *[sale or barter or gift or possession]* not being of the type that is authorized under the laws of Mississippi; and
4. *[Defendant's name]* had at least twice previously been convicted for two or more distinct violations of this section when the defendant was convicted *[state circumstances, details, and statute used in the defendant's previous two or more convictions]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-31-27.

Chapter 16

Offenses Affecting Public Morals and Decency

§ 16:1 Cohabitation, adultery, or fornication between persons forbidden to marry
§ 16:2 —Leaving state to marry
§ 16:3 Bigamy
§ 16:4 Incest between persons forbidden to marry
§ 16:5 Using telephone to make obscene phone calls or using telecommunication or electronic communication to threaten, annoy, or harass
§ 16:6 Unnatural carnal intercourse
§ 16:7 Voyeurism
§ 16:8 Grave robbing
§ 16:9 Bribery involving an athletic contest
§ 16:10 Accepting a bribe involving an athletic contest

Research References

West's Key Number Digest

Bribery 🔑1 to 3, 6 to 14; Criminal Law 🔑31 to 82, 304 to 572, 769 to 868; Lewdness 🔑1 to 11; Obscenity 🔑1 to 20

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq.
Miss. Civ. Proc. §§ 12:1 et seq., 14:1 et seq., 14A:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 16:1 Cohabitation, adultery, or fornication between persons forbidden to marry

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of *[adultery or fornication]* between certain persons forbidden to marry each other.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully (1) cohabited or (2) lived together as husband and wife or (3) committed an act of adultery or fornication;
3. With *[name]*, a person who was related by *[state relationship]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

The marriages that are prohibited by Miss. Code Ann. § 93-1-1 are the following:

1. A son shall not marry his grandmother, mother or stepmother, aunt, stepsister begotten by his father or mother, or his first cousins by blood.
2. A daughter shall not marry her grandfather, father or stepfather, uncle, stepbrother begotten by her father or mother, or her first cousins by blood.
3. A brother may not marry his sister or the daughter of his brother or sister.
4. A sister may not marry her brother or the son of her brother or sister.
5. A father shall not marry his daughter, adopted daughter, granddaughter or his son's widow.
6. A mother shall not marry her son, adopted son, grandson, or her daughter's widower.
7. A man shall not marry his wife's daughter or his wife's granddaughter.
8. A woman shall not marry her husband's son or her husband's grandson.

Miss. Code Ann. §§ 97-29-27 to 97-29-29.

§ 16:2 Cohabitation, adultery, or fornication between persons forbidden to marry—Leaving state to marry

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of *[adultery or fornication]* by going out of state to enter into a marriage prohibited under the laws of this state.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully left the state for the purpose of marrying *[name of party]*; and
3. Married in *[state]*;
4. Returned to this state and *[lived together as man and wife or performed one act of copulation]*; and
5. At the time, *[name]* was *[state relationship to spouse]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

The marriages that are prohibited by Miss. Code Ann. § 93-1-1 are the following:

1. A son shall not marry his grandmother, mother or stepmother, aunt, stepsister begotten by his father or mother, or his first cousins by blood.
2. A daughter shall not marry her grandfather, father or stepfather, uncle, stepbrother begotten by her father or mother, or her first cousins by blood.
3. A brother may not marry his sister or the daughter of his brother or sister.
4. A sister may not marry her brother or the son of her brother or sister.
5. A father shall not marry his daughter, adopted daughter, granddaughter or his son's widow.

6. A mother shall not marry her son, adopted son, grandson, or her daughter's widower.

7. A man shall not marry his wife's daughter or his wife's granddaughter.

8. A woman shall not marry her husband's son or her husband's grandson.

Miss. Code Ann. § 97-29-9.

§ 16:3 Bigamy

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of bigamy.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2.
   A. *[name of defendant]*, while legally married to *[name of spouse 1]*, who was still living, unlawfully married *[name of spouse 2]*; or
   B. *[Name of defendant]* unlawfully married *[name of spouse]*, knowing that person to be legally married to *[name of spouse 1]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[name of defendant]* not guilty of count *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-29-13.

§ 16:4 Incest between persons forbidden to marry

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

________ *[Defendant's name]* has been charged in ________ *[count no.]* with the offense of incest.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. After divorce for incest, *[name of defendant]* unlawfully cohabited or lived together as man and wife or engaged in an act of *[fornication / adultery]* with *[name of person]*, who was related by being the defendant's *[description of relationship]*,

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find ________ *[defendant's name]* not guilty of ________ *[count no.]*.

NOTES TO FORM

Practice Notes

The marriages that are prohibited by Miss. Code Ann. § 93-1-1 are the following:

1. A son shall not marry his grandmother, mother or stepmother, aunt, stepsister begotten by his father or mother, or his first cousins by blood.
2. A daughter shall not marry her grandfather, father or stepfather, uncle, stepbrother begotten by her father or mother, or her first cousins by blood.
3. A brother may not marry his sister or the daughter of his brother or sister.
4. A sister may not marry her brother or the son of her brother or sister.
5. A father shall not marry his daughter, adopted daughter, granddaughter or his son's widow.
6. A mother shall not marry her son, adopted son, grandson, or her daughter's widower.
7. A man shall not marry his wife's daughter or his wife's granddaughter.
8. A woman shall not marry her husband's son or her husband's grandson.

Miss. Code Ann. §§ 97-29-27 to 97-29-29.

§ 16:5 Using telephone to make obscene phone calls or using telecommunication or electronic communication to threaten, annoy, or harass

IN THE *[DESIGNATION OF COURT]* COURT OF

[NAME OF COUNTY], MISSISSIPPI

[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI

V. NO. *[CASE NUMBER]*

[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] has been charged in *[number of count]* with the offense of making an obscene telecommunication or electronic communication.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;

2. *[Name of defendant]* unlawfully made or caused to be made or knowingly allowed the defendant's telephone or any type or computer to be used to make;

3. A telephone call or electronic communication to *[name of receiver]* at *[address of receiver]*;

[EITHER:]

4. In which *[name of caller]* made an obscene, lewd or lascivious statement intended to abuse, threaten or harass *name of receiver]*; and

[OR:]

4. In which *[name of caller]* intended to terrify, intimidate or harass *[name of receiver]*, and threatened to inflict bodily harm to *[name of receiver]*, who was at the called number, or any of *[his/her]* property; and

[OR:]

4. In which *[name of caller]* did not identify *[himself/herself]*, intending to annoy, abuse, threaten or harass *[name of receiver]*, whether or not conversation ensued; and

[OR:]

4. In which *[name of caller]* made the telephone ring repeatedly with the intent to harass *[name of receiver]* or repeatedly sent electronic communications; and

[OR:]

4. In which *[name of caller]* made repeated calls or electronic communications in which conversation or communication ensued, solely to harass *[name of receiver]*; and

5. *[Name of defendant]* was previously convicted of *[specifica-*

tion of conduct] in *[description of previous conviction]* on *[date of previous conviction]* and in *[description of previous conviction]* on *[date of previous conviction]*; and

6. *[Name of defendant]*'s previous convictions for *[specification of conduct]* occurred within 5 years of *[date of incident]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-29-45.

§ 16:6 Unnatural carnal intercourse

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of unnatural intercourse.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully had unnatural carnal intercourse with *[(other person's name) or (type of beast)]*;
3. Where an intentional penetration of the body occurred by *[description of the act]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-29-59.

§ 16:7 Voyeurism

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of voyeurism.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* entered, legally or illegally, the property of *[name of owner]* at *[address of property]*; and
3. Thereafter unlawfully pried or peeped through;
4. *[A window or (type of other opening)]*;
5. In *[state dwelling or other building or structure]*;
6. For the lewd, licentious and indecent purpose of spying upon an occupant therein;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-29-61.

§ 16:8 Grave robbing

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of grave robbing.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* unlawfully (1) removed a dead human body from or (2) dug into or (3) wantonly disturbed or (4) opened;
3. The *[grave or (describe other place of interment)]* of *[deceased's name]* at *[name of cemetery or place]*; and
4. Opened it for the purpose of *[selling the body or mere wantonness or dissection or stealing the (coffin or part thereof or garments or articles interred with the dead body)]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. §§ 97-29-19 to 97-29-23.

§ 16:9 Bribery involving an athletic contest

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of bribery involving an athletic contest.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* unlawfully gave or promised or offered;

3. *[Name of person]*, who was *[a or an] [professional or amateur] [baseball or football or basketball or tennis or (name other sport)] [player or coach or manager or trainer]*;
4. *[Describe value, promise, or offer given]*;
5. With the intent to influence *[name of person]* to *[lose or try to lose or cause to be lost or limit the margin of victory in] [state the athletic contest]* in which *[he/she] [took part in or expected to take part in or had a duty in]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. 97-29-17.

§ 16:10 Accepting a bribe involving an athletic contest

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI	
V.	NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]	

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Defendant's name] has been charged in *[count no.]* with the offense of accepting a bribe in an athletic contest.

If you find from the evidence in this case beyond a reasonable doubt that:

1. On or about *[date of offense]* in *[name of county]*;
2. *[Name of defendant]* was *[a professional/ an amateur] [description of sport] [player/coach/manager/trainer]*; and
3. Unlawfully *[solicited/accepted]*;
4. *[Describe value solicited or accepted]*;
5. From *[name of briber]*;
6. Which was given to influence him/her to *[lose or try to lose or cause to be lost or limit the margin of victory of] [state the athletic contest]* in which *[defendant's name] [took part or expected to take part or had a duty]*;

then you shall find the defendant guilty as charged.

If the prosecution has failed to prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find *[defendant's name]* not guilty of *[count no.]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-29-17.

Chapter 17

Weapons and Explosives

§ 17:1 Carrying a concealed weapon—Third offense
§ 17:2 —By a convicted felon
§ 17:3 Possessing a weapon—By a convicted felon
§ 17:4 Possessing a weapon on educational property

Research References

West's Key Number Digest

Criminal Law 🔑12 to 15, 772, 778, 1173.2; Double jeopardy 🔑135H; Indictments and charging instruments 🔑140, 1095; Sentencing and punishment 🔑1223, 1231, 1513; Weapons 🔑107, 112, 173, 225, 303

Treatises and Practice Aids

Encyclopedia of Mississippi Law §§ 13:1 et seq., 23:1 et seq., 24:1 et seq.
Miss. Trial Handbook §§ 34:1 et seq.

Trial Strategy

Instructing the Jury—Pattern Instructions, 6 Am. Jur. Trials 923
Selecting the Jury—Defense View, 5 Am. Jur. Trials 247
Selecting the Jury—Plaintiff's View, 5 Am. Jur. Trials 143

KeyCite®: Cases and other legal materials listed in KeyCite Scope can be researched through the KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

§ 17:1 Carrying a concealed weapon—Third offense

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] is charged in *[number of count]* with carrying a concealed weapon.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did unlawfully carry *[a/an] [description of weapon]* concealed on or about *[his/her]* person; and
3. *[Name of defendant]* was previously convicted of *[description of violation]* in *[name of court]* on *[date of conviction]*; and

then you shall find the defendant guilty as charged.

If the prosecution did not prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-37-1.

§ 17:2 Carrying a concealed weapon—By a convicted felon

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI
V. — NO. *[CASE NUMBER]*
[NAME OF DEFENDANT]

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] is charged in *[number of count]* with carrying a concealed weapon while being a convicted felon.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did unlawfully carry a *[description of weapon]* concealed on or about *[his/her]* person; and
3. *[Name of defendant]* was previously convicted of *[description of violation]* in *[name of court]* on *[date of conviction]*,

then you shall find the defendant guilty as charged.

If the prosecution did not prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-37-1.

§ 17:3 Possessing a weapon—By a convicted felon

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] is charged in *[number of count]* with possessing a weapon while being a convicted felon.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did unlawfully possess a *[description of weapon]*; and
3. *[Name of defendant]* was previously convicted of *[specification of felony conviction]* in *[description of previous conviction]* on *[date of previous conviction]*;

then you shall find the defendant guilty as charged.

If the prosecution did not prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-37-5(1).

§ 17:4 Possessing a weapon on educational property

IN THE *[DESIGNATION OF COURT]* COURT OF
[NAME OF COUNTY], MISSISSIPPI
[DESIGNATION OF DISTRICT] JUDICIAL DISTRICT

STATE OF MISSISSIPPI V. *[NAME OF DEFENDANT]*	NO. *[CASE NUMBER]*

INSTRUCTION NO. *[NUMBER OF INSTRUCTION]*

[Name of defendant] is charged in *[number of count]* with possessing a weapon on educational property.

If you find beyond a reasonable doubt from the evidence in this case that:

1. On or about *[date of offense]*, in *[name of county]*;
2. *[Name of defendant]* did unlawfully *[carry/possess]* a *[description of weapon]*;
3. On *[description of property]*, which is educational property, as defined in instruction no. *[number of instruction]*;

then you shall find the defendant guilty as charged.

If the prosecution did not prove any one or more of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty of *[number of count]*.

NOTES TO FORM

Practice Notes

Miss. Code Ann. § 97-37-17. For the definition of educational property, see Mississippi Criminal Jury Instruction § 3:16.

Table of Laws and Rules

MISSISSIPPI CODE ANNOTATED

Sec. **Sec.**

27-109-1 14:1
41-29-105(aa) 3:25
41-29-105(g) 3:9
41-29-105(h) 3:14
41-29-105(q) 3:20
41-29-105(z) 3:24
41-29-139 4:1, 4:2, 4:3, 4:4, 4:5, 4:6, 4:7, 4:8, 4:9, 4:10, 4:11, 4:12, 4:13
41-29-142 4:3, 4:4
41-29-145 4:1, 4:2
41-29-313(1)(a)(i) 4:14, 4:16
41-29-313(1)(a)(ii) 4:15, 4:17
41-29-313(1)(b) 3:23
43-47-5 7:3, 7:6, 7:9, 7:12, 7:15, 7:18, 7:21, 7:24, 7:27, 7:30, 7:33, 7:36, 7:39
43-47-5(q) 3:29
47-5-54 8:6
63-11-30 5:1, 5:2, 5:3, 5:5, 5:6, 5:7, 5:8
81-9-5 13:5
93-1-1 16:1, 16:2, 16:4
97-1-1 3:8, 6:1
97-1-3 3:2, 6:2
97-1-5 3:1, 6:3
97-1-7 to 97-1-9 6:4
97-1-7(2) 6:5
97-3-7 3:12, 3:28
97-3-7(1) 7:1, 7:2, 7:3, 7:4, 7:5, 7:6, 7:7, 7:8, 7:9, 7:10, 7:11, 7:12, 7:13, 7:14, 7:15, 7:16, 7:17, 7:18
97-3-7(2) 7:19, 7:20, 7:21, 7:22, 7:23, 7:24, 7:25, 7:26, 7:27, 7:28, 7:29, 7:30, 7:31, 7:32, 7:33, 7:34, 7:35, 7:36, 7:37, 7:38, 7:39, 7:40
97-3-7(3) 7:42, 7:43
97-3-7(4) 7:44, 7:45, 7:46
97-3-7(9) 7:47
97-3-7(9)(a) 3:27
97-3-19(1)(a) 8:1

Sec. **Sec.**

97-3-19(1)(b) 8:2
97-3-19(1)(c) 8:3
97-3-19(1)(d) 8:4
97-3-19(2)(a) 3:21, 8:6
97-3-19(2)(b) 8:7
97-3-19(2)(c) 8:8
97-3-19(2)(d) 8:9
97-3-19(2)(e) 8:10
97-3-19(2)(f) 8:11
97-3-19(2)(g) 8:12
97-3-19(2)(h) 8:13
97-3-27 8:14
97-3-29 8:15
97-3-31 8:16
97-3-33 8:17
97-3-35 3:28, 8:18
97-3-41 8:22
97-3-45 8:19
97-3-47 8:20
97-3-49 8:23
97-3-51(2) 8:29
97-3-52 8:26
97-3-53 8:24, 8:25, 8:27, 8:28
97-3-59 8:38
97-3-65 3:26
97-3-65(1)(a) 8:30
97-3-65(1)(b) 8:31
97-3-65(6) 3:26, 9:8
97-3-71 7:41
97-3-73 8:32
97-3-77 8:33
97-3-79 8:34, 8:35
97-3-95(2) 9:10
97-3-97 9:4
97-3-117(1) 8:36
97-3-117(2) 8:37
97-3-95 to 97-3-99 9:9
97-5-1 9:1
97-5-3 9:2
97-5-5 9:3

MISSISSIPPI CODE ANNOTATED—Continued

Sec.	Sec.
97-5-23(1)	9:4
97-5-23(2)	9:5, 9:6
97-5-31	9:7, 9:8
97-5-33(1) through (7)	9:7
97-5-39(2)	9:12
97-5-39(2)(b)	9:13
97-5-39(2)(c)	9:14
97-5-41	9:11
97-9-27	10:1
97-9-29	10:2
97-9-41	10:3
97-9-45	10:4
97-9-55	10:5
97-9-59	10:6
97-9-63	10:7
97-9-65	10:8
97-9-69	12:31
97-9-73	10:9
97-9-103	10:10
97-9-105	10:11
97-9-107	10:12
97-9-109	10:13
97-9-111	10:14
97-9-113	10:15
97-9-115	10:16
97-9-116	10:17
97-9-117	10:18
97-9-119	10:19
97-9-121	10:20
97-9-123	10:21
97-9-125	10:22
97-9-127	10:23
97-11-11	11:1
97-11-13	11:2
97-11-25	11:4
97-11-27	11:5
97-11-29	11:3, 11:6, 11:7, 11:8
97-11-53	11:1, 11:2
97-17-1	12:1
97-17-3	12:2, 12:3
97-17-5	12:4
97-17-7	12:5
97-17-9	12:6
97-17-11	12:10
97-17-13(1)	12:7
97-17-13(2)(a)	12:8
97-17-13(2)(b)	12:9
97-17-14	12:11
97-17-23(1)	12:12, 12:13
97-17-23(2)	12:14
97-17-25	12:15
97-17-29	12:16
97-17-33	12:17
97-17-35	12:18
97-17-37	12:19
97-17-39	12:28, 12:29
97-17-41	12:20, 12:21, 12:22, 12:24
97-17-43	12:22, 12:24
97-17-47	12:21
97-17-53	12:22
97-17-59	12:23
97-17-63	12:24
97-17-64	12:25
97-17-65	12:27
97-17-70	12:26
97-17-77	12:30
97-19-33	13:1
97-19-35	13:2
97-19-39	13:3
97-19-41	13:3
97-19-45	13:4
97-19-47	13:5
97-19-51	13:6
97-19-53	13:7
97-19-55	13:8, 13:9
97-21-1	14:2
97-21-3	14:3
97-21-7	14:4
97-21-9	14:5
97-21-19	14:6
97-21-21	14:7
97-21-23	14:17, 14:18, 14:19
97-21-29	14:8
97-21-31	14:9
97-21-35	14:10
97-21-37	14:11
97-21-45	14:12
97-21-47	14:13
97-21-49	14:16
97-21-61	14:14
97-21-63	14:15
97-23-19	15:1, 15:2
97-23-21	15:2
97-23-23	15:3
97-23-25 to 97-23-27	15:4
97-23-43	15:5, 15:6

MISSISSIPPI CODE ANNOTATED—Continued

Sec.	Sec.
97-23-93	15:7
97-29-9	16:2
97-29-13	16:3
97-29-17	16:9, 16:10
97-29-19 to 97-29-23	16:8
97-29-27 to 97-29-29	16:1, 16:4
97-29-45	16:5
97-29-59	16:6
97-29-61	16:7
97-31-27	15:8
97-33-7	14:1
97-37-1	17:1, 17:2
97-37-5(1)	17:3
97-37-17	8:12, 17:4
97-37-17(1)(a)	3:16
97-39-117(2)	8:37
99-1-25	2:5
99-7-39	10:6
99-7-41	10:7
99-13-7	2:7
99-19-101	1:29
63-1-1 to 63-7-311, 63-9-11	5:9
97-3-27; 97-3-33; 97-3-47	3:10

MISSISSIPPI RULES OF EVIDENCE

Rule	Sec.
404(b)	1:16

Table of Cases

A

Alexander v. State, 749 So. 2d 1031 (Miss. 1999)—1:20

Allen v. U.S., 164 U.S. 492, 17 S. Ct. 154, 41 L. Ed. 528 (1896)—1:25

Anderson v. State, 241 So. 2d 677 (Miss. 1970)—3:7

B

Bain v. State, 67 Miss. 557, 7 So. 408 (1890)—2:4

Batteast v. State, 215 Miss. 337, 60 So. 2d 814 (1952)—3:12, 3:28

Bean v. State, 297 So. 2d 903 (Miss. 1974)—2:7

Berry v. State, 859 So. 2d 399 (Miss. Ct. App. 2003)—1:23

Blanks v. State, 547 So. 2d 29 (Miss. 1989)—3:28

Boches v. State, 506 So. 2d 254 (Miss. 1987)—3:22

Boggs v. Eaton, 379 So. 2d 520 (Miss. 1980)—3:11

Boone v. State, 291 So. 2d 182 (Miss. 1974)—3:14, 3:25

Brooks v. State, 236 So. 2d 751 (Miss. 1970)—2:4

Brown v. State, 252 So. 2d 885 (Miss. 1971)—2:4

Bryson v. State, 291 So. 2d 693 (Miss. 1974)—3:7

Bucklew v. State, 206 So. 2d 200 (Miss. 1968)—2:2

C

Carr v. State, 655 So. 2d 824 (Miss. 1995)—8:3, 8:10, 8:11, 8:14, 8:15

Cazalas v. State, 227 Miss. 546, 86 So. 2d 497 (1956)—3:28

Chandler v. State, 946 So. 2d 355 (Miss. 2006)—2:15

Chase v. State, 645 So. 2d 829 (Miss. 1994)—1:7

Coleman v. Ford Motor Co., 70 So. 3d 223 (Miss. Ct. App. 2011)—1:8, 1:9, 1:10

Collier v. King, 251 Miss. 607, 170 So. 2d 632 (1965)—3:11

Cook v. State, 825 So. 2d 678 (Miss. Ct. App. 2002)—3:22

Curry v. State, 249 So. 2d 414 (Miss. 1971)—3:22

D

Dilworth v. State, 909 So. 2d 731 (Miss. 2005)—3:2, 3:4

Doby v. State, 557 So. 2d 533 (Miss. 1990)—1:26

Dotson v. State, 358 So. 2d 1321 (Miss. 1978)—7:2, 7:5, 7:8, 7:11, 7:14, 7:17, 7:20, 7:23, 7:26, 7:29, 7:32, 7:35, 7:38

Duckworth v. State, 477 So. 2d 935 (Miss. 1985)—3:12

Duke v. State, 340 So. 2d 727 (Miss. 1976)—2:3

Dupuis v. State, 872 So. 2d 724 (Miss. Ct. App. 2004)—9:4, 9:9

Duvall v. State, 634 So. 2d 524 (Miss. 1994)—3:13

E

Eatman v. State, 169 Miss. 295, 153 So. 381 (1934)—2:7

Edlin v. State, 523 So. 2d 42 (Miss. 1988)—1:23, 1:24

Edmond v. State, 312 So. 2d 702 (Miss. 1975)—2:6

Edwards v. State, 500 So. 2d 967 (Miss. 1986)—6:4

Evans v. State, 802 So. 2d 137 (Miss. Ct. App. 2001)—3:22

F

Fairchild v. State, 459 So. 2d 793 (Miss. 1984)—3:28

Farris v. State, 764 So. 2d 411 (Miss. 2000)—3:8, 6:1

Flowers v. State, 473 So. 2d 164 (Miss. 1985)—2:13

Floyd v. State, 155 So. 3d 883 (Miss. Ct. App. 2014)—3:22

Fondren v. State, 253 Miss. 241, 175 So. 2d 628 (1965)—3:5

G

Gambrell v. State, 238 Miss. 892, 120 So. 2d 758 (1960)—2:6, 2:7

Gilbert v. State, 934 So. 2d 330 (Miss. Ct. App. 2006)—3:19

Ginn v. State, 860 So. 2d 675 (Miss. 2003)—4:16, 4:17

Givens v. State, 618 So. 2d 1313 (Miss. 1993)—1:20

Gordon v. State, 458 So. 2d 739 (Miss. 1984)—13:3

Gossett v. State, 660 So. 2d 1285 (Miss. 1995)—3:13

Guilbeau v. State, 502 So. 2d 639 (Miss. 1987)—3:6

H

Harvey v. State, 207 So. 2d 108 (Miss. 1968)—2:6

Hendrieth v. State, 230 So. 2d 217 (Miss. 1970)—3:28

Herron v. State, 287 So. 2d 759 (Miss. 1974)—2:7

Hill v. State, 339 So. 2d 1382 (Miss. 1976)—2:7

Hobson v. State, 730 So. 2d 20 (Miss. 1998)—8:5, 8:21

Holmes v. State, 481 So. 2d 319 (Miss. 1985)—1:27

Huff v. Edwards, 241 So. 2d 654 (Miss. 1970)—3:2

Hunter v. State, 489 So. 2d 1086 (Miss. 1986)—1:13

Hurns v. State, 616 So. 2d 313 (Miss. 1993)—3:10

J

Jackson v. State, 645 So. 2d 921 (Miss. 1994)—2:1

Johnson v. State, 235 So. 3d 1404 (Miss. 2017)—1:20

Johnson v. State, 792 So. 2d 253 (Miss. 2001)—3:8

Johnson v. State, 749 So. 2d 369 (Miss. Ct. App. 1999)—8:1, 8:2, 8:3, 8:6, 8:7, 8:10, 8:11, 8:13, 8:14, 8:15, 8:16, 8:17, 8:20

Jones v. State, 710 So. 2d 870 (Miss. 1998)—3:3, 8:1

Jones v. State, 288 So. 2d 833 (Miss. 1974)—2:7

K

Keys v. State, 478 So. 2d 266 (Miss. 1985)—1:20

L

Lanier v. State, 533 So. 2d 473 (Miss. 1988)—2:8

Leuer v. City of Flowood, 744 So. 2d 266 (Miss. 1999)—3:15, 5:4

M

Manning v. State, 735 So. 2d 323 (Miss. 1999)—1:20, 1:29

Martin v. State, 804 So. 2d 967 (Miss. 2001)—3:22

May v. State, 460 So. 2d 778 (Miss. 1984)—8:16

McDaniel v. State, 356 So. 2d 1151 (Miss. 1978)—2:8

McGowan v. State, 541 So. 2d 1027 (Miss. 1989)—6:4

Milano v. State, 790 So. 2d 179 (Miss. 2001)—6:6

Mississippi State Tax Commission v. Brown, 188 Miss. 483, 193 So. 794, 127 A.L.R. 919 (1940)—2:10, 2:11

Moore v. State, 822 So. 2d 1100 (Miss. Ct. App. 2002)—3:7

Moore v. State, 787 So. 2d 1282 (Miss. 2001)—1:17, 1:18

Moore v. State, 493 So. 2d 1301 (Miss. 1986)—3:7

N

Neal v. State, 451 So. 2d 743 (Miss. 1984)—1:29

Newburn v. State, 205 So. 2d 260 (Miss. 1967)—3:5

Newton v. State, 229 Miss. 267, 90 So. 2d 375 (1956)—1:27
Nicolaou v. State, 534 So. 2d 168 (Miss. 1988)—3:28

P

People v. Ferguson, 134 Cal. App. 41, 24 P.2d 965 (2d Dist. 1933)—2:10, 2:11
Petti v. State, 666 So. 2d 754 (Miss. 1995)—1:21
Pruitt v. State, 528 So. 2d 828 (Miss. 1988)—2:2

R

Ratliff v. State, 317 So. 2d 403 (Miss. 1975)—3:7
Reddix v. State, 731 So. 2d 591 (Miss. 1999)—2:13
Reynolds v. State, 136 So. 3d 452 (Miss. Ct. App. 2014)—1:20
Rhone v. State, 254 So. 2d 750 (Miss. 1971)—3:7
Rigby v. State, 826 So. 2d 694 (Miss. 2002)—1:13
Robinson v. State, 858 So. 2d 887 (Miss. Ct. App. 2003)—2:14
Rogers v. State, 95 So. 3d 623 (Miss. 2012)—1:5, 1:6
Rowland v. State, 182 Miss. 886, 183 So. 527 (1938)—3:28

S

Scott v. State, 91 Miss. 156, 44 So. 803 (1907)—2:9
Shanklin v. State, 290 So. 2d 625 (Miss. 1974)—3:12, 3:28
Sharplin v. State, 330 So. 2d 591 (Miss. 1976)—1:24
Shaw v. State, 915 So. 2d 442 (Miss. 2005)—3:19
Sheffield v. State, 749 So. 2d 123 (Miss. 1999)—1:20
Sherrell v. State, 622 So. 2d 1233 (Miss. 1993)—3:6
Simmons v. State, 805 So. 2d 452 (Miss. 2001)—3:4
Slaughter v. State, 815 So. 2d 1122 (Miss. 2002)—3:1, 6:3
Smith v. State, 499 So. 2d 750 (Miss. 1986)—3:5
Smith v. State, 220 So. 2d 313 (Miss. 1969)—2:7
Smith v. State, 197 Miss. 802, 20 So. 2d 701, 161 A.L.R. 1 (1945)—3:10
Smith v. State, 95 Miss. 786, 49 So. 945 (1909)—2:7
State v. Longino, 109 Miss. 125, 67 So. 902 (1915)—2:10, 2:11
State v. Pearson, 97 N.C. 434, 1 S.E. 914 (1887)—2:10, 2:11
State v. Peoples, 481 So. 2d 1069 (Miss. 1986)—3:2
Stewart v. State, 909 So. 2d 52 (Miss. 2005)—8:5, 8:21
Stokes v. State, 92 Miss. 415, 46 So. 627 (1908)—2:3

T

Tate v. State, 20 So. 3d 623 (Miss. 2009)—1:14
Taylor v. State, 158 Miss. 505, 130 So. 502 (1930)—2:4
Thomas v. State, 278 So. 2d 469 (Miss. 1973)—8:32, 8:34, 8:35
Turner v. State, 796 So. 2d 998 (Miss. 2001)—1:6

U

U.S. v. Heath, 970 F.2d 1397, 36 Fed. R. Evid. Serv. 523 (5th Cir. 1992)—1:25
U.S. v. Kimmel, 777 F.2d 290 (5th Cir. 1985)—1:25
U.S. v. McCracken, 488 F.2d 406 (5th Cir. 1974)—2:7

V

Vaden v. State, 965 So. 2d 1072 (Miss. Ct. App. 2007)—1:13
Vardaman v. State, 966 So. 2d 885 (Miss. Ct. App. 2007)—1:8, 1:9, 1:10

W

Walker v. Epps, 2007 WL 1452532 (S.D. Miss. 2007)—1:7
Watkins v. State, 101 So. 3d 628 (Miss. 2012)—3:22
Watson v. State, 212 Miss. 788, 55 So. 2d 441 (1951)—2:4

Welch v. State, 566 So. 2d 680 (Miss. 1990)—8:5, 8:21
Wheeler v. State, 560 So. 2d 171 (Miss. 1990)—1:18
Williams v. State, 772 So. 2d 406 (Miss. Ct. App. 2000)—8:36, 8:37
Williams v. State, 729 So. 2d 1181 (Miss. 1998)—8:1
Wilson v. State, 592 So. 2d 993 (Miss. 1991)—3:2, 6:2
Windham v. State, 520 So. 2d 123 (Miss. 1987)—3:13
Winston v. State, 479 So. 2d 1093 (Miss. 1985)—3:5
Wordlaw v. State, 218 So. 3d 768 (Miss. Ct. App. 2017)—1:6
Wright v. State, 512 So. 2d 679 (Miss. 1987)—3:5

Index

ABANDONMENT
- Child under age of six, abandonment of, **9:1**

ABETTORS
- See index heading AIDER AND ABETTOR

ABUSE OF CHILD
- Felonious child abuse, **8:11, 9:12 to 9:14**

ACCEPTANCE
- Public morals and decency, accepting bribe involving athletic contest, **16:10**
- Public officials, acceptance of bribe, **11:2**

ACCESSORY AFTER THE FACT
- Generally, **6:3**
- Definition, **3:1**

ACCESSORY BEFORE THE FACT
- Generally, **6:2**
- Definition, **3:2**

ACCOMPLICE
- Definition, **3:3**
- Standard instructions, weight and credibility of accomplice testimony, **1:18**

ACCOUNT BOOKS
- Forgery. See index heading FORGERY

ACKNOWLEDGMENT
- Deeds. See index heading DEEDS

ACTUAL KNOWLEDGE
- Affirmative defenses, mistake or ignorance of law, **2:10**

ADDITION OR ADDITIONAL MATTERS
- Standard instructions, additional instruction for deadlocked jury, **1:25**

ADMINISTRATION OF JUSTICE
- Generally, **10:1 to 10:23**
- Arrest, resisting or obstructing, **10:9**
- Attorney, intimidation of, **10:5**
- Bribery to procure perjury, **10:8**
- Definition of perjury, **10:6**
- Escape. See index heading ESCAPE
- Intimidation. See index heading INTIMIDATION
- Judges. See index heading JUDGES
- Juror, intimidation of, **10:5, 10:20**
- Obstructing arrest, **10:9**
- Obstruction of justice. See index heading OBSTRUCTION OF JUSTICE
- Perjury. See index heading PERJURY
- Prisons and prisoners. See index heading ESCAPE
- Procurement of perjury, bribery for, **10:8**
- Resisting arrest, **10:9**
- Subornation of perjury, **10:7**
- Witness. See index heading WITNESSES

ADMISSIBILITY
- Impeachment purposes, admissibility of statement for, **1:15**
- Limited purpose, admissibility of evidence for, **1:16**

ADOPTION
- Carnal knowledge of adopted child, **9:11**

ADULTERY
- Public morals and decency, cohabitation, adultery, or fornication between persons forbidden to marry, **16:1, 16:2**

AFFIRMATIVE DEFENSES
- Generally, **2:1 to 2:15**
- Abandonment of intent to commit crime, **2:2**
- Actual knowledge, mistake or ignorance of law, **2:10**

AFFIRMATIVE DEFENSES —Cont'd
- Alibi as defense, **2:1**
- Attempt
  - abandonment of intent to commit crime, **2:2**
  - impossibility as defense, **2:3**
- Drug offenses, mistake or ignorance of law, **2:12**
- Duress, **2:4**
- Entrapment, **2:5**
- Fact, mistake of, **2:9**
- Form of verdict, insanity defense, **2:7**
- Ignorance of law, **2:10 to 2:12**
- Imperfect self-defense, **2:15**
- Impossibility as defense, **2:3**
- Insanity defense, **2:6, 2:7**
- Intent, mistake or ignorance of law, **2:10, 2:11**
- Intoxication, voluntary intoxication, **2:8**
- Knowledge, mistake or ignorance of law, **2:10**
- Mistake or error
  - actual knowledge, mistake or ignorance of law, **2:10**
  - drug offenses, mistake or ignorance of law, **2:12**
  - fact, mistake of, **2:9**
  - ignorance of law, **2:10 to 2:12**
  - intent, mistake or ignorance of law, **2:10, 2:11**
  - knowledge, mistake or ignorance of law, **2:10**
  - specific intent, mistake or ignorance of law, **2:10**
- Self-defense, **2:13 to 2:15**
- Serious bodily injury, use of deadly force against threat of, **2:14**
- Specific intent, mistake or ignorance of law, **2:10**
- Verdict form, insanity defense, **2:7**
- Voluntary intoxication, **2:8**

AFTER THE FACT
- See index heading ACCESSORY AFTER THE FACT

AGENT
- Embezzlement by, **15:1**

AGGRAVATED ASSAULT
- See index heading ASSAULT

AGGRAVATED DOMESTIC VIOLENCE
- Generally, **7:44 to 7:46**

AIDER AND ABETTOR
- Generally, **6:6**
- Definition, **3:4**
- Escape of felon, **10:2**

ALCOHOLIC BEVERAGES
- See index heading INTOXICATION AND INTOXICATING BEVERAGES

ALIBI
- Affirmative defenses, alibi as, **2:1**

ALTERATION
- See index heading MODIFICATION OR CHANGE

ANIMALS
- Homicide, dangerous animal, **8:19**
- Livestock, larceny by stealing, **12:22**

ANNOYANCE
- Public morals and decency, telephone, telecommunications or electronic communication used to annoy, **16:5**

ARMED CARJACKING
- Generally, **8:37**

ARMED ROBBERY
- Attempted, **8:35**

ARREST
- Administration of justice, resisting or obstructing arrest, **10:9**

ARSON
- Aggravated assault upon fire fighter, **12:11**
- Assault, aggravated assault upon fire fighter, **12:11**
- Attempt to burn as willful and malicious, fourth degree, **12:6**
- Dwelling house, first degree burning of, **12:1**
- Fire fighter, aggravated assault upon, **12:11**

ARSON—Cont'd
- First degree
  - dwelling house, **12:1**
  - outbuilding, **12:1**
  - reports, failure to report accidental fire at school building, **12:3**
  - school building, **12:2, 12:3**
- Fourth degree, willful and malicious attempt to burn, **12:6**
- Insured property, arson of, **12:7**
- Intentional or unintentional injury to fire fighter caused by arson, **12:11**
- Malicious attempt to burn, fourth degree, **12:6**
- Marsh, setting fire to, **12:8 to 12:10**
- Meadow, setting fire to, **12:8 to 12:10**
- Outbuilding, first degree burning of, **12:1**
- Personal property, third degree, **12:5**
- Reports, failure to report accidental fire at school building, **12:3**
- School building, first degree burning of, **12:2, 12:3**
- Second degree, burning of any building, **12:4**
- Third degree, burning personal property, **12:5**
- Willfulness
  - fourth degree, willful and malicious attempt to burn, **12:6**
- Woods, setting fire to, **12:8 to 12:10**

ASSAULT
- Generally, **7:1 to 7:47**
- Aggravated assault
  - arson, aggravated assault upon fire fighter, **12:11**
  - attempts
    - cause serious bodily injury to another, **7:19 to 7:21**
    - deadly weapon, cause bodily injury to another with, **7:28 to 7:30**
    - means other than deadly weapon likely to produce death or serious harm, **7:34 to 7:36**

ASSAULT—Cont'd
- Aggravated assault—Cont'd
  - deadly weapon, attempts to cause bodily injury to another with, **7:28 to 7:30**
  - fire fighter, aggravated assault upon, **12:11**
  - law enforcement officer or other official
    - attempts
      - cause serious bodily injury, **7:20**
      - deadly weapon, cause bodily injury to another with, **7:29**
      - means other than deadly weapon likely to produce death or serious harm, **7:35**
    - purposely, knowingly causes injury upon
      - deadly weapon, causes bodily injury with, **7:31, 7:32**
      - means likely to produce death or serious harm, causes bodily injury using, **7:37, 7:38**
      - serious bodily injury to another, **7:23**
    - recklessly under circumstances manifesting extreme indifference to value of human life, **7:26**
  - person 65 years of age or older or a vulnerable adult
    - attempts
      - cause serious bodily injury, **7:21**
      - deadly weapon, cause bodily injury to another with, **7:30**
      - means other than deadly weapon likely to produce death or serious harm, **7:36**
    - purposely, knowingly causes injury upon
      - deadly weapon, causes bodily injury with, **7:32**

ASSAULT—Cont'd

- Aggravated assault—Cont'd
  - person 65 years of age or older or a vulnerable adult—Cont'd
    - purposely, knowingly causes injury upon—Cont'd
      - means likely to produce death or serious harm, causes bodily injury using, **7:39**
      - serious bodily injury to another, **7:24**
    - recklessly under circumstances manifesting extreme indifference to value of human life, **7:27**
  - purposely, knowingly causes
    - law enforcement officer or other official. See "Law enforcement officer or other official" under this index heading
    - person 65 years of age or older. See "Person 65 years of age or older or a vulnerable adult" under this index heading
    - serious bodily injury to another, **7:22 to 7:24**
    - vulnerable adult. See "Person 65 years of age or older or a vulnerable adult" under this index heading
  - recklessly under circumstances manifesting extreme indifference to value of human life, **7:25 to 7:27**
  - school bus, injuring a child getting off of, **7:40**
- Arson, aggravated assault upon fire fighter, **12:11**
- Attempts
  - aggravated assault. See "Aggravated assault" in this index heading
  - simple assault. See "Simple assault" in this index heading
- Deadly weapon
  - attempts to cause bodily injury to another with, **7:28 to 7:30**
  - negligently causes bodily injury to another with, **7:10 to 7:12**

ASSAULT—Cont'd

- Domestic violence. See index heading DOMESTIC VIOLENCE
- Fire fighter, aggravated assault upon, **12:11**
- Indifference to value of human life, recklessly under circumstances manifesting extreme, **7:25 to 7:27**
- Knowingly causes bodily injury to another. See "Purposely, knowingly causes bodily injury to another" in this index heading
- Law enforcement officer or other official
  - aggravated assault. See "Aggravated assault" in this index heading
  - simple assault. See "Simple assault" in this index heading
- Menace, attempt to put another in fear of imminent serious bodily harm by physical menace, **7:16 to 7:18**
- Negligently causes bodily injury to another
  - deadly weapon, **7:10 to 7:12**
  - means other than deadly weapon likely to produce death or injury, **7:13 to 7:15**
- Person 65 years of age or older or a vulnerable adult
  - aggravated assault. See "Aggravated assault" in this index heading
  - simple assault. See "Simple assault" in this index heading
- Public officials. See "Law enforcement officer or other official" in this index heading
- Purposely, knowingly causes bodily injury to another
  - aggravated assault. See "Aggravated assault" in this index heading
  - simple assault, **7:4 to 7:6**
- Ravish, assault with intent to, **7:41**
- Recklessly causes bodily injury to another
  - aggravated assault, under circumstances manifesting extreme

ASSAULT—Cont'd
- Recklessly causes bodily injury to another—Cont'd
    - indifference to value of human life, **7:25 to 7:27**
  - simple assault, **7:7 to 7:9**
- School bus, injuring a child getting off of, **7:40**
- Simple assault
  - attempts
    - cause bodily injury to another, **7:1 to 7:3**
    - fear of imminent serious bodily harm, by physical menace, **7:16 to 7:18**
  - deadly weapon, negligently causes bodily injury to another with, **7:10 to 7:12**
  - law enforcement officer or other official
    - attempt to cause bodily harm to, **7:2**
    - fear of imminent serious bodily harm, by physical menace, **7:17**
    - negligently causes bodily injury to another using other means likely to produce death or injury, **7:14**
    - negligently causes bodily injury to another with a deadly weapon, **7:11**
    - purposely, knowingly causes bodily injury to another, **7:5**
    - recklessly causes bodily injury to another, **7:8**
  - negligently causes bodily injury to another using other means likely to produce death or injury, **7:14, 7:15**
  - negligently causes bodily injury to another with a deadly weapon, **7:10 to 7:12**
  - person 65 years of age or older or a vulnerable adult
    - attempt to cause bodily harm to, **7:3**
    - fear of imminent serious bodily harm, by physical menace, **7:18**

ASSAULT—Cont'd
- Simple assault—Cont'd
  - person 65 years of age or older or a vulnerable adult—Cont'd
    - negligently causes bodily injury to another using other means likely to produce death or injury, **7:15**
    - negligently causes bodily injury to another with a deadly weapon, **7:12**
    - purposely, knowingly causes bodily injury to another, **7:6**
    - recklessly causes bodily injury to another, **7:9**
  - physical menace, attempt to put another in fear of imminent serious bodily harm, **7:16 to 7:18**
  - purposely, knowingly causes bodily injury to another, **7:4 to 7:6**
  - recklessly causes bodily injury to another, **7:7 to 7:9**
- Vulnerable adults. See "Person 65 years of age or older or a vulnerable adult" in this index heading
- Weapons. See "Deadly weapon" under this index heading

ATHLETIC CONTEST
- Public morals and decency. See index heading PUBLIC MORALS AND DECENCY

ATTEMPTS
- Affirmative defenses. See index heading AFFIRMATIVE DEFENSES
- Aggravated assault attempt. See index heading ASSAULT
- Arson in the fourth degree, attempt to burn as willful and malicious, **12:6**
- Assault. See index heading ASSAULT
- Domestic violence, attempts by physical menace to put family member in fear of imminent serious bodily harm, **7:43**
- Escape, attempted escape from penitentiary or custody, **10:3**

ATTEMPTS—Cont'd
- General attempt instruction, **6:4**
- Kidnapping, attempting to sell or buy a child as, **8:28**
- Murder, attempted, **6:5**
- Robbery, attempted armed robbery, **8:35**
- Simple assault attempt. See index heading ASSAULT

ATTORNEYS
- Administration of justice, intimidation of attorney, **10:5**
- License, practice of law without, **15:5, 15:6**

AUTHORITY OR AUTHORIZATION
- Person in authority defined
  - fondling of child by person in authority, **9:6**
- Public officials, unauthorized loan of public money or property with intent to defraud, **11:8**

AUTOMOBILES
- See index heading MOTOR VEHICLES

BAD CHECKS
- False pretenses, **13:8, 13:9**

BAILMENT
- Trade, business, or profession, embezzlement by bailee, **15:1**

BANKS AND BANKING
- Counterfeiting, possession of counterfeit bank notes or other forged instruments with intent to defraud, **14:11**
- False pretenses, See index heading FALSE PRETENSES

BARTER
- Trade, business, or profession, barter of intoxicating beverages, **15:8**

BATTERY
- Children or minors. See index heading CHILDREN OR MINORS

BEFORE THE FACT
- See index heading ACCESSORY BEFORE THE FACT

BIFURCATED HEARING
- Life imprisonment sentence possible, form of verdict when, **1:28**

BIGAMY
- Public morals and decency, **16:3**

BILLS AND NOTES
- Counterfeiting. See index heading COUNTERFEITING
- Forgery. See index heading FORGERY

BOATS
- Overloading a boat, manslaughter, **8:22**

BOMBS
- See index heading EXPLOSIVE DEVICES

BREAKING [BURGLARY]
- Definitions, **3:5**

BREAKING OUT OF DWELLING
- Burglary, **12:15**

BRIBERY
- Administration of justice, bribery to procure perjury, **10:8**
- Athletic contests. See index heading PUBLIC MORALS AND DECENCY
- Obstruction of justice. See index heading OBSTRUCTION OF JUSTICE
- Perjury, bribery to procure, **10:8**
- Public morals and decency. See index heading PUBLIC MORALS AND DECENCY
- Public officials. See index heading PUBLIC OFFICIALS

BUILDINGS
- Arson. See index heading ARSON
- Burglary, buildings other than house, **12:17**
- Outbuilding, first degree burning of, **12:1**
- Public buildings. See index heading PUBLIC BUILDINGS

BURDEN OF PROOF
- Reasonable doubt, **1:12, 1:13**
- Standard instructions, presumption of innocence, **1:11**

BURGLAR'S TOOLS
Possession of, **12:18**

BURGLARY
Generally, **12:12 et seq.**
Breaking out of dwelling, **12:15**
Buildings other than house, **12:17**
Burglar's tools, possession of, **12:18**
Deadly weapon, breaking and entering a dwelling with, **12:13**
Doors, breaking inner door of dwelling, **12:16**
Explosives, burglary with, **12:19**
Inner door of dwelling, breaking of, **12:16**
Possession of burglar's tools, **12:18**
Terrorize, breaking and entering a dwelling with circumstances likely to terrorize, **12:14**
Tools, possession of burglar's tools, **12:18**
Weapons and explosives
  deadly weapon, breaking and entering a dwelling with, **12:13**
  explosives, burglary with, **12:19**

BURNING
Arson. See index heading ARSON

BUSINESSES
See index heading TRADE, BUSINESS, OR PROFESSION

CAPITAL CASE
Homicide. See index heading HOMICIDE

CARJACKING
Generally, **8:36**
Armed carjacking, **8:37**

CARNAL KNOWLEDGE
See index heading SEX AND SEXUAL OFFENSES

CEMETERIES
Defacing cemetery property, churches, schools, or public buildings, **12:29**
Injury or destruction of cemetery property, **12:28**

CEMETERIES—Cont'd
Public morals and decency, grave robbing, **16:8**

CERTIFICATES OR CERTIFICATION
Forgery, false certification of acknowledgment of deed, **14:4**

CHANGE
See index heading MODIFICATION OR CHANGE

CHECKLISTS
Standard instructions, checklist for drafting criminal instructions, **1:5**

CHECKS
Counterfeit check, sale of, **14:16**
False pretenses, worthless checks, **13:8, 13:9**
Forgery, plate to print checks, **14:17, 14:18**

CHEMICAL TESTS
Motor vehicle offenses. See index heading MOTOR VEHICLES

CHILD ABUSE
Felonious child abuse, **8:11, 9:12 to 9:14**

CHILDREN OR MINORS
Abandonment of child under age of six, **9:1**
Abuse of child, felonious child abuse, **8:11, 9:12 to 9:14**
Adopted child, carnal knowledge of, **9:11**
Assault, injuring a child getting off of a school bus, **7:40**
Battery
  felonious battery, **8:11**
  sexual battery, **9:9, 9:10**
Carnal knowledge of stepchild, adopted child, or child or cohabiting partner, **9:11**
Child abuse, felonious child abuse, **8:11, 9:12 to 9:14**
Cohabiting partner, carnal knowledge of, **9:11**

CHILDREN OR MINORS—Cont'd
- Concealment, enticement of child for, **9:3**
- Controlled substances. See index heading CONTROLLED SUBSTANCES
- Depicting child under age eighteen engaged in sexual activity, **9:7, 9:8**
- Desertion of child under age of 18, **9:2**
- Enticement of child for concealment, prostitution, or marriage, **9:3**
- False pretenses. See index heading FALSE PRETENSES
- Felonious child abuse or battery, **8:11, 9:12 to 9:14**
- Fondling of child
  - under age eighteen by person in authority, **9:5, 9:6**
  - under age sixteen, **9:4**
- Homicide, deliberate design death of unborn child, **8:4**
- Kidnapping. See index heading KIDNAPPING
- Marriage, enticement of child for, **9:3**
- Nonsupport of child under age of 18, **9:2**
- Prostitution, enticement of child for, **9:3**
- Rape
  - statutory rape
    - victim al least age fourteen but under age sixteen, **8:30**
    - victim under age fourteen, **8:31**
- Sexual battery, **9:9, 9:10**
- Statutory rape. See "Rape" in this index heading
- Stepchild, carnal knowledge of, **9:11**
- Unborn child, deliberate design death of, **8:4**

CHURCHES
- Defacing churches, **12:29**
- Injuring or destroying church property, **12:28**

CIRCUMSTANTIAL EVIDENCE
- Generally, **1:20, 1:21**
- Definitions, **3:6**

COHABITATION
- Children or minors, carnal knowledge of cohabiting partner, **9:11**
- Public morals and decency, cohabitation, adultery, or fornication between persons forbidden to marry, **16:1, 16:2**

COMMUNICATIONS
- Standard instructions, communicating with court during deliberations, **1:22**

CONCEALMENT
- Children or minors, enticement of child for concealment, **9:3**
- Escaped prisoner, concealment of, **10:4**

CONFESSION
- Definition, **3:7**

CONFESSION OF JUDGMENT
- False pretenses, **13:1**

CONNECTION
- Forgery, connecting parts of written instruments to produce one instrument, **14:9**

CONSENT OR APPROVAL
- Standard instructions for deadlocked jury, approval for use within state courts, **1:24**

CONSPIRACY AND ACCESSORIES
- After the fact accessories, **3:1, 6:3**
- Aider and abettor, **6:6**
- Conspiracy, generally, **6:1**
- Definitions
  - accessory after the fact, **3:1**
  - accessory before the fact, **3:2**
  - conspiracy, **3:8**
- Before the fact accessories, **3:2, 6:2**

CONTRACTS OR AGREEMENTS
- Trade, business, or profession, embezzlement of property received on contract, **15:4**

CONTROLLED SUBSTANCES
- Generally, **4:1 to 4:17**

CONTROLLED SUBSTANCES —Cont'd

- Affirmative defense for drug offense, mistake or ignorance of law, **2:12**
- Children or minors
  - possession of controlled substance with intent to distribute to minor, **4:2**
  - sale of controlled substance to minor, **4:1**
  - school ground. See "School ground" in this index heading
- Constructive possession of two or more precursors with intent to manufacture controlled substance, **4:16, 4:17**
- Distribution. See "Intent to distribute" in this index heading
- Intent to distribute
  - marijuana or synthetic cannabinoids, **4:13**
  - minor, possession of controlled substance with intent to distribute to, **4:2**
  - possession
    - marijuana or synthetic cannabinoids, **4:13**
    - minor, possession of controlled substance with intent to distribute to, **4:2**
    - Schedule I or II controlled substance, **4:7**
    - Schedule III, IV, or V controlled substance, **4:10**
    - school ground, possession of controlled substance with intent to distribute on or near, **4:4**
  - Schedule I or II controlled substance, **4:7**
  - Schedule III, IV, or V controlled substance, **4:10**
  - school ground, possession of controlled substance with intent to distribute on or near, **4:4**
- Intent to manufacture, possession of two or more precursors with intent to manufacture controlled substance, **4:14 to 4:17**

CONTROLLED SUBSTANCES —Cont'd

- Marijuana or synthetic cannabinoids
  - intent to distribute, **4:13**
  - possession, generally, **4:11**
  - sale, **4:12**
- Minors. See "Children or minors" in this index heading
- Possession
  - constructive possession of two or more precursors with intent to manufacture controlled substance, **4:16, 4:17**
  - distribution. See "Intent to distribute" in this index heading
  - intent to distribute. See "Intent to distribute" in this index heading
  - marijuana or synthetic cannabinoids, **4:11, 4:13**
  - marijuana. See "Marijuana or synthetic cannabinoids" in this index heading
  - minor, possession of controlled substance with intent to distribute to, **4:2**
  - precursors, possession of two or more with intent to manufacture controlled substance, **4:14 to 4:17**
  - Schedule I or II controlled substance, **4:5, 4:7**
  - Schedule III, IV, or V controlled substance, **4:8, 4:10**
  - school ground, possession of controlled substance with intent to distribute on or near, **4:4**
- Proximity. See "School ground" in this index heading
- Sales
  - marijuana or synthetic cannabinoids, **4:12**
  - minor, sale of controlled substance to, **4:1**
  - Schedule I or II controlled substance, **4:6**
  - Schedule III, IV, or V controlled substance, **4:9**
  - school ground, sale of controlled substance on or near, **4:3**

CONTROLLED SUBSTANCES —Cont'd
- Schedule I or II controlled substance
  - possession, **4:5, 4:7**
  - sales, **4:6**
- Schedule III, IV, or V controlled substance
  - possession, **4:8, 4:10**
  - sales, **4:9**
- School ground
  - possession of controlled substance with intent to distribute on or near school ground, **4:4**
  - sale of controlled substance on or near school ground, **4:3**
- Synthetic cannabinoids. See "Marijuana or synthetic cannabinoids" in this index heading

CONVEYANCE
- Escape, conveying articles useful for escape to prisoners, **10:1**

CORPORATIONS
- Forgery. See index heading FORGERY

COUNTERFEIT SUBSTANCE
- Definition, **3:9**

COUNTERFEITING
- Bank notes, possession of counterfeit bank notes or other forged instruments with intent to defraud, **14:11**
- Bills and notes
  - bank notes, possession of counterfeit bank notes or other forged instruments with intent to defraud, **14:11**
  - sale of counterfeit notes, **14:16**
- Check, sale of counterfeit, **14:16**
- Debt, sale of counterfeit evidence of, **14:16**
- Definition of counterfeit substance, **3:9**
- Evidence of debt, sale of counterfeit, **14:16**
- Notes, sale of counterfeit, **14:16**
- Sale of counterfeit note, check, or other evidence of debt, **14:16**

COURTS
- Forgery. See index heading FORGERY

CROPS
- Larceny by severing, **12:21**

CULPABLE NEGLIGENCE
- See index heading NEGLIGENCE

CURTILAGE
- Definition, **3:11**

CUSTODY
- Escape, attempted escape from custody, **10:3**
- Kidnapping, interstate removal of child under fourteen by noncustodial parent or relative, **8:29**

DEADLOCKED JURY
- Additional instruction for deadlocked jury, Fifth Circuit modified Allen charge, **1:25**
- Deliberations, generally, **1:24**

DEADLY WEAPON
- See index heading WEAPONS AND EXPLOSIVES

DEATH
- Assault. See index heading ASSAULT
- Capital case, standard instructions, **1:29**
- Motor vehicle offenses, death caused by driving under the influence, **5:8**

DEBT
- Evidence of debt. See index heading EVIDENCE OF DEBT

DECENCY
- See index heading PUBLIC MORALS AND DECENCY

DEEDS
- Acknowledgment of deed
  - false pretenses, **13:1**
  - forgery, false certification of acknowledgment of deed, **14:4**
- False certification of acknowledgment of deed, **14:4**

DEEDS—Cont'd
- False pretenses, acknowledgment of deed, **13:1**
- Forgery
  - generally, **14:15**
  - false certification of acknowledgment of, **14:4**

DEFACEMENT
- Cemetery property, churches, schools, or public buildings, **12:29**

DEFENSES
- See index heading AFFIRMATIVE DEFENSES

DEFINITIONS
- Abettor, **3:4**
- Accessory after the fact, **3:1**
- Accessory before the fact, **3:2**
- Accomplice, **3:3**
- Actual possession, **3:22**
- Aider and abettor, **3:4**
- Breaking — burglary, **3:5**
- Circumstantial evidence, **3:6**
- Confession, **3:7**
- Conspiracy, **3:8**
- Constructive possession, **3:22**
- Counterfeit substance, **3:9**
- Culpable negligence, **3:10**
- Curtilage, **3:11**
- Deadly weapon, **3:12**
- Deliberate design, **3:13**
- Deliver or delivery, **3:14**
- Direct evidence, **3:6**
- Driving under the influence, **3:15, 5:4**
- Educational property, **3:16**
- Entering — burglary, **3:17**
- Flight, **3:18**
- Flight by defendant, **3:19**
- Manufacture, **3:20**
- Negligence, setting fire to woods, marsh or meadow, **12:10**
- Peace officer, **3:21**
- Perjury, **10:6**
- Person in authority
  - fondling of child by, **9:6**
  - sexual battery by, **9:10**
- Possession, **3:22**

DEFINITIONS—Cont'd
- Precursor, **3:23**
- Production, **3:24**
- Recklessness, setting fire to woods, marsh or meadow, **12:10**
- Robbery, **8:32**
- Sale, sell, or selling, **3:25**
- Sexual conduct, depicting child under age eighteen engaged in, **9:8**
- Sexual intercourse, **3:26**
- Strangle, **3:27, 7:47**
- Use of a deadly weapon — homicide, **3:28**
- Vulnerable adult, **3:29**

DELIBERATE DESIGN
- Definitions, **3:13**
- Murder. See index heading HOMICIDE

DELIBERATIONS
- Additional instruction for deadlocked jury, Fifth Circuit modified Allen charge, **1:25**
- Approval for use within state courts, instructions for deadlocked jury, **1:24**
- Communicating with court during, **1:22**
- Deadlocked jury. See index heading DEADLOCKED JURY
- Fifth Circuit modified Allen charge, additional instruction for deadlocked jury, **1:25**
- Foreman, selection of, **1:22**
- Modified Allen charge, additional instruction for deadlocked jury, **1:25**
- Selection of foreman, **1:22**
- Unanimous verdict, **1:23**
- Verdict, unanimous verdict, **1:23**

DELIVERY
- Definitions, deliver or delivery, **3:14**
- Embezzlement. See index heading PUBLIC OFFICIALS
- Public officials. See index heading PUBLIC OFFICIALS

DENTISTRY
- Practice of dentistry without license, **15:5, 15:6**

DEPOSITS
- False pretenses, receiving deposits into insolvent bank, **13:5**

DEPRAVED HEART
- Murder, **8:2**

DESERTION
- Child under age of 18, desertion of, **9:2**

DESTRUCTION OF PROPERTY
- Cemetery property, churches, schools, or public buildings, destruction of, **12:28**
- Forgery, destroying writing deemed, **14:7**
- Public buildings, destruction or injury to, **12:28**
- School property, destruction or injury to, **12:28**

DISTRIBUTION
- Controlled substances. See index heading CONTROLLED SUBSTANCES

DOCUMENTS OF COURT
- Forgery, **14:10**

DOMESTIC VIOLENCE
- Aggravated, **7:44 to 7:46**
- Simple, **7:42, 7:43**

DOORS
- Burglary, breaking inner door of dwelling, **12:16**

DRIVING UNDER THE INFLUENCE
- See index heading MOTOR VEHICLES

DRUGS AND NARCOTICS
- Controlled substances. See index heading CONTROLLED SUBSTANCES

DURESS
- Affirmative defenses, **2:4**

DWELLING HOUSE
- Arson, first degree burning of dwelling house, **12:1**

EDUCATION
- See index heading SCHOOLS AND EDUCATION

ELDERLY PERSONS
- See index heading VULNERABLE ADULTS

ELECTRONIC COMMUNICATIONS
- Discussion of case, jurors may not use electronic media for, **1:3**
- Public morals and decency, electronic communications used for obscene threatening, annoying, or harassing communications, **16:5**

EMBEZZLEMENT
- Public officials. See index heading PUBLIC OFFICIALS
- Trade, business, or profession. See index heading TRADE, BUSINESS, OR PROFESSION

EMPLOYEE
- Embezzlement by, **15:1**

ENCUMBRANCES
- See index heading LIENS OR ENCUMBRANCES

ENDORSEMENT
- Forgery, issuing false indorsement, **14:5**
- Public officials, endorsing false warrant, embezzlement, **11:7**

ENGRAVING PLATE
- Forgery, engraving plate to print note, check, or other evidence of debt, **14:17**

ENTERING [BURGLARY]
- Definition, **3:17**

ENTICEMENT
- Child, enticement of for concealment, prostitution, or marriage, **9:3**

ENTRAPMENT
- Affirmative defenses, **2:5**

ENTRIES
- Public officials, false entry with intent to defraud, **11:6**

ERASURES
- Forgery, erasing writing deemed, **14:7**

ESCAPE
- Aiding escape of felon, **10:2**
- Attempted escape from penitentiary or custody, **10:3**
- Concealing or harboring escaped prisoner, **10:4**
- Conveying articles useful for escape to prisoners, **10:1**
- Custody, attempted escape from, **10:3**
- Felon, aiding escape of, **10:2**
- Harboring escaped prisoner, **10:4**

EVIDENCE
- Accomplice testimony, weight and credibility of, **1:18**
- Admissibility. See index heading ADMISSIBILITY
- Burden of proof. See index heading BURDEN OF PROOF
- Circumstantial evidence
  - generally, **1:20**
  - definitions, **3:6**
  - two-theory instruction, **1:21**
- Credibility of witnesses, generally, **1:17**
- Debt. See index heading EVIDENCE OF DEBT
- Definitions, **3:6, 3:13**
- Impeachment purposes, admissibility of statement for, **1:15**
- Innocence, presumption of, **1:11**
- Presumption of innocence, **1:11**
- Prior inconsistent statements by witnesses, **1:19**
- Reasonable doubt, **1:12, 1:13**
- Statements
  - impeachment purposes, admissibility of statement for, **1:15**
  - prior inconsistent statements by witnesses, **1:19**
- Weight and credibility of accomplice testimony, **1:18**

EVIDENCE OF DEBT
- Counterfeiting, sale of counterfeit evidence of debt, **14:16**
- Forgery. See index heading FORGERY
- Trade, business, or profession, embezzlement of evidence of debt, **15:2**

EXPLOSIVES
- See index heading WEAPONS AND EXPLOSIVES

FACT, MISTAKE OF
- Affirmative defenses, **2:9**

FALSE ENTRY
- Public officials, false entry with intent to defraud, **11:6**

FALSE PERSONATION
- See index heading FALSE PRETENSES

FALSE PRETENSES
- Generally, **13:1 to 13:9**
- Acknowledgment of deed, **13:1**
- Bad checks, **13:8, 13:9**
- Banks
  - bad checks, **13:8, 13:9**
  - receiving deposits into insolvent bank, **13:5**
- Checks, worthless checks, **13:8, 13:9**
- Children
  - inheritance, misrepresenting identity of child with intent to intercept, **13:4**
  - substituting child to deceive parent or guardian, **13:7**
- Confession of judgment, **13:1**
- Deed acknowledgment, **13:1**
- Deposits, receiving deposits into insolvent bank, **13:5**
- False personation to marry, **13:1**
- False personation to receive money, **13:2**
- Guardian, substituting child to deceive, **13:7**
- Identity, misrepresenting identity of child with intent to intercept inheritance, **13:4**
- Inheritance, misrepresenting identity of child with intent to intercept, **13:4**
- Insolvent bank, receiving deposits into, **13:5**
- Intent
  - children, misrepresenting identity of child with intent to intercept inheritance, **13:4**

FALSE PRETENSES—Cont'd
  Intent—Cont'd
    signature obtained with intent to deceive, **13:3**
  Liens or encumbrances, selling or encumbering property previously sold or encumbered, **13:6**
  Marriage, false personation to marry, **13:1**
  Money, false personation to receive, **13:2**
  Parents. See "Children" in this index heading
  Selling or encumbering property previously sold or encumbered, **13:6**
  Signature obtained with intent to deceive, **13:3**
  Substituting child to deceive parent or guardian, **13:7**
  Surety, false personation to become, **13:1**
  Worthless checks, **13:8, 13:9**

FAMILY OR RELATIVES
  Children or minors. See index heading CHILDREN OR MINORS
  Kidnapping, interstate removal of child under fourteen by noncustodial parent or relative, **8:29**
  Marriage. See index heading MARRIAGE
  Robbery, threat to injure person or relative at another time, **8:33**
  Violence. See index heading DOMESTIC VIOLENCE

FELONS AND FELONIES
  Arson, setting fire to woods, marsh or meadow, **12:8**
  Children or minors, felonious child abuse or battery, **8:11, 9:12 to 9:14**
  Escape, aiding escape of felon, **10:2**
  Homicide. See index heading HOMICIDE
  Murder. See index heading HOMICIDE
  Weapon, carrying or possession of weapon by convicted felon, **17:2, 17:3**

FENCES
  Larceny by severing, **12:21**

FIFTH CIRCUIT
  Standard instructions, additional instruction for deadlocked jury, **1:25**

FIRE FIGHTER
  Arson, aggravated assault upon fire fighter, **12:11**

FIREARMS
  See index heading WEAPONS AND EXPLOSIVES

FIRES
  Arson. See index heading ARSON

FIRST DEGREE
  Arson. See index heading ARSON

FLIGHT
  Definition, **3:18, 3:19**

FLIGHT BY DEFENDANT
  Definition, **3:19**

FONDLING MENTALLY DEFECTIVE PERSON
  Generally, **9:4**

FONDLING OF CHILD
  See index heading CHILDREN OR MINORS

FORCIBLE SEIZURE AND CONFINEMENT
  See index heading KIDNAPPING

FOREIGN STATE OR COUNTRY
  Kidnapping, interstate removal of child under fourteen by noncustodial parent or relative, **8:29**
  Property, removing out of state property subject to lien, **12:30**
  Public morals and decency, cohabitation, adultery, or fornication between persons forbidden to marry, **16:2**

FOREMAN
  Standard instructions, selection of foreman, **1:22**

FORGERY
- Generally, **14:2 to 14:19**
- Account books
  - corporation, **14:3**
  - public office, **14:2**
- Acknowledgment of deed, false certification of, **14:4**
- Alteration of evidence of debt, possession of impression from plate used for, **14:19**
- Bank notes, possession of counterfeit bank notes or other forged instruments with intent to defraud, **14:11**
- Bills and notes. See "Notes" in this index heading
- Certificates or certification, false certification of acknowledgment of deed, **14:4**
- Checks, plate to print, **14:17, 14:18**
- Connecting parts of written instruments to produce one instrument, **14:9**
- Corporations
  - account books of corporation, forgery of, **14:3**
  - seal of corporation, **14:13**
  - signing false name to corporate evidence of debt, **14:6**
  - stock, issuing false stock, **14:5**
- Courts
  - documents of court, **14:10**
  - records of court, **14:12**
- Deeds. See index heading DEEDS
- Destroying writing deemed forgery, **14:7**
- Documents of court, **14:10**
- Engraving plate to print note, check, or other evidence of debt, **14:17**
- Erasing writing deemed forgery, **14:7**
- Evidence of debt
  - engraving plate to print note, check, or other evidence of debt, **14:17**
  - possession of impression from plate used to alter evidence of debt, **14:19**
  - possession of plate to print note, check, or other evidence of debt, **14:18**

FORGERY—Cont'd
- Evidence of debt—Cont'd
  - signing false name to corporate evidence of debt, **14:6**
- Indorsement, issuing false, **14:5**
- Intent
  - bank notes, possession of counterfeit bank notes or other forged instruments with intent to defraud, **14:11**
  - uttering instrument in own name under pretense it is act of another with intent to defraud, **14:8**
- Licenses, **14:10**
- Notes
  - counterfeit bank notes or other forged instruments with intent to defraud, possession of, **14:11**
  - engraving plate to print note, check, or other evidence of debt, **14:17**
  - possession of plate to print note, check, or other evidence of debt, **14:18**
- Obliterating writing deemed forgery, **14:7**
- Official seal, **14:13**
- Plates
  - alteration, possession of impression from plate used to alter evidence of debt, **14:19**
  - engraving plate to print note, check, or other evidence of debt, **14:17**
  - printing, possession of plate to print note, check, or other evidence of debt, **14:18**
- Possession
  - counterfeit bank notes or other forged instruments with intent to defraud, possession of, **14:11**
  - impression from plate used to alter evidence of debt, possession of, **14:19**
  - plate to print note, check, or other evidence of debt, possession of, **14:18**

FORGERY—Cont'd
- Printing note, check, or other evidence of debt, possession of plate for, **14:18**
- Probate records, **14:12**
- Property rights, forgery of will, deed, or other instrument affecting, **14:15**
- Public office, forgery of account books in, **14:2**
- Records of court, **14:12**
- Seals, forgery of official or corporate seal, **14:13**
- Security, issuing false, **14:5**
- Signing false name to corporate evidence of debt, **14:6**
- Stock, issuing false, **14:5**
- Treasury warrant, forgery of, **14:14**
- Warrants, forgery of treasury warrant, **14:14**
- Will, forgery of, **14:15**

FORNICATION
- Public morals and decency, cohabitation, adultery, or fornication between persons forbidden to marry, **16:1, 16:2**

FOURTH DEGREE
- Arson, willful and malicious attempt to burn, **12:6**

FRAUD
- Counterfeiting. See index heading COUNTERFEITING
- False pretenses. See index heading FALSE PRETENSES
- Forgery. See index heading FORGERY
- Public officials, **11:6, 11:8**

GAMBLING
- Possession of gambling device, **14:1**

GENERAL INSTRUCTIONS
- See index heading STANDARD INSTRUCTIONS

GIFTS
- Trade, business, or profession, gift of intoxicating beverages, **15:8**

GOOD FAITH
- Public officials, bad faith refusal to deliver materials to successor in office, **11:5**

GRAND LARCENY
- Generally, **12:20**

GRAVE ROBBING
- Public morals and decency, **16:8**

GUARDIAN AND WARD
- False pretenses, substituting child to deceive guardian, **13:7**

HARASSMENT
- Public morals and decency, telephone, telecommunications or electronic communication used to harass, **16:5**

HARBORING ESCAPED PRISONER
- Generally, **10:4**

HEAT OF PASSION
- Manslaughter, **8:18**

HINDERING PROSECUTION
- See index heading OBSTRUCTION OF JUSTICE

HOMICIDE
- Animal, dangerous animal, **8:19**
- Attempted murder, **6:5**
- Boat, overloading, **8:22**
- Bomb, use or detonation of, **8:8**
- Capital case
  - generally, **8:6 to 8:13**
  - bomb, use or detonation of, **8:8**
  - child abuse or battery, felonious, **8:11**
  - educational property, murder perpetrated on, **8:12**
  - elected official, killing, **8:13**
  - engaged in commission of a felony, **8:10, 8:11**
  - explosive device, use or detonation of, **8:8**
  - life sentence, defendant under, **8:7**
  - peace officer or other official, killing, **8:6**

HOMICIDE—Cont'd
- Capital case—Cont'd
  - standard instructions, verdict forms, **1:29**
  - value offered or received for committing murder, **8:9**
- Child abuse or battery, felonious, **8:11**
- Dangerous animal, manslaughter, **8:19**
- Deliberate design. See "Murder" in this index heading
- Depraved heart, murder, **8:2**
- Educational property, murder perpetrated on, **8:12**
- Elected official, killing, **8:13**
- Engaged in commission of a felony
  - capital murder, **8:10, 8:11**
  - manslaughter (non-capital felony), **8:14**
  - murder (non-capital felony), **8:3**
- Engaged in the commission of a misdemeanor, manslaughter, **8:15**
- Explosive device, use or detonation of, **8:8**
- Heat of passion, manslaughter, **8:18**
- Lesser included offense
  - manslaughter as, **8:21**
  - murder as, **8:5**
- Life sentence, defendant under, **8:7**
- Malice aforethought, murder, **8:1**
- Manslaughter
  - generally, **8:14 to 8:23**
  - dangerous animal, **8:19**
  - engaged in the commission of a felony (non-capital), **8:14**
  - engaged in the commission of a misdemeanor, **8:15**
  - heat of passion, **8:18**
  - lesser included offense, manslaughter as, **8:21**
  - negligence, culpable, **8:20**
  - resisting an unlawful act, **8:16**
  - trespass, victim engaged in, **8:17**
- Murder
  - generally, **8:1 to 8:13**
  - attempted murder, **6:5**
  - capital murder. See "Capital case" in this index heading

HOMICIDE—Cont'd
- Murder—Cont'd
  - deliberate design
    - generally, **8:1**
    - unborn child, **8:4**
  - depraved heart, **8:2**
  - engaged in the commission of a felony (non-capital), **8:3**
  - lesser included offense, murder as, **8:5**
  - malice aforethought, **8:1**
  - unborn child, deliberate design death of, **8:4**
- Negligence, culpable, **8:20**
- Peace officer or other official, killing, **8:6**
- Resisting an unlawful act, manslaughter, **8:16**
- School property, murder perpetrated on, **8:12**
- Standard instructions, verdict forms, **1:29**
- Trespass, homicide victim engaged in, **8:17**
- Unborn child, deliberate design death of, **8:4**
- Value offered or received for committing murder, **8:9**

HUSBAND AND WIFE
- See index heading MARRIAGE

IDENTITY OR IDENTIFICATION
- False pretenses, misrepresenting identity of child with intent to intercept inheritance, **13:4**

IGNORANCE OF LAW
- Affirmative defenses, **2:10 to 2:12**

IMPEACHMENT
- Standard instructions, admissibility of statement for impeachment purposes, **1:15**

IMPOSSIBILITY
- Affirmative defense, impossibility as, **2:3**

IMPROVEMENTS
- Larceny by severing, **12:21**

INCEST
- Public morals and decency, incest between persons forbidden to marry, **16:4**

INDIFFERENCE
- Assault, indifference to human life, **7:25, 7:26**

INHERITANCE
- False pretenses, misrepresenting identity of child with intent to intercept inheritance, **13:4**

INJURY TO PROPERTY
- Cemetery property or church property, **12:28**

INNER DOORS
- Burglary, breaking of inner door of dwelling, **12:16**

INNOCENCE
- Standard instructions, presumption of innocence, **1:11**

INSANITY
- Affirmative defenses, **2:6, 2:7**

INSOLVENCY
- False pretenses, receiving deposits into insolvent bank, **13:5**

INSURANCE
- Arson of insured property, **12:7**

INTENT
- Affirmative defenses, mistake or ignorance of law, **2:10, 2:11**
- Arson, intentional or unintentional injury to fire fighter caused by, **12:11**
- Controlled substances. See index heading CONTROLLED SUBSTANCES
- Embezzlement. See index heading PUBLIC OFFICIALS
- False pretenses. See index heading FALSE PRETENSES
- Forgery. See index heading FORGERY
- Kidnapping, **8:24, 8:25**
- Property, removing property with intent to prevent legal seizure, **12:31**

INTENT—Cont'd
- Public officials. See index heading PUBLIC OFFICIALS

INTIMIDATION
- Administration of justice, generally, **10:5**
- Obstruction of justice. See index heading OBSTRUCTION OF JUSTICE

INTOXICATION AND INTOXICATING BEVERAGES
- Affirmative defenses, voluntary intoxication, **2:8**
- Trade, business, or profession, illegal possession, sale, barter, or gift of intoxicating beverages, **15:8**

ISSUE BY ISSUE INSTRUCTIONS
- General pattern instructions, **1:6, 1:7**
- Lesser included offenses, general pattern instructions, **1:7**
- Memory aid for jurors. See "Note-taking" under this index heading
- Note-taking
  - forbidden during trial, **1:8**
  - permitted during trial, **1:9**
  - use of notes during deliberations, **1:10**

JUDGES
- Administration of justice, generally, **10:5**
- Obstruction of justice. See index heading OBSTRUCTION OF JUSTICE

KIDNAPPING
- Children
  - interstate removal of child under fourteen by noncustodial parent or relative, **8:29**
  - selling, buying or attempting to sell or buy a child, **8:28**
  - sixteen years old, kidnapping child under age of, **8:26**
- Custody, interstate removal of child under fourteen by noncustodial parent or relative, **8:29**
- Family or relatives, interstate removal of child under fourteen by noncustodial parent or relative, **8:29**

KIDNAPPING—Cont'd
- Intent, **8:24, 8:25**
- Interstate removal of child under fourteen by noncustodial parent or relative, **8:29**
- Parents. See "Children" in this index heading
- Selling, buying or attempting to sell or buy a child, **8:28**
- Sixteen years old, kidnapping child under age of, **8:26**
- Vulnerable adult, **8:27**

KNOWLEDGE
- Affirmative defenses, mistake or ignorance of law, **2:10**
- Assault. See index heading ASSAULT

LARCENY
- Crops, larceny by severing, **12:21**
- Fences, larceny by severing, **12:21**
- Grand larceny, **12:20**
- Improvements, larceny by severing, **12:21**
- Lease agreements, larceny of property obtained by, **12:24, 12:25**
- Livestock, larceny by stealing, **12:22**
- Receipt of stolen property, **12:26**
- Rental agreement, larceny of property obtained by, **12:25**
- Severing crops, fences, or improvements, larceny by, **12:21**
- Tenants in common, larceny by, **12:24**
- Timber, larceny by stealing, **12:23**

LAW ENFORCEMENT OFFICERS
- Assault. See index heading ASSAULT
- Capital murder, killing a peace officer or other official, **8:6**
- Peace officer defined, **3:21**

LAW PRACTICE
- License, practice of law without license, **15:5, 15:6**

LEASES OR LEASE AGREEMENTS
- Larceny of property obtained by, **12:24, 12:25**

LEASES OR LEASE AGREEMENTS—Cont'd
- Tenants in common, larceny by, **12:24**

LESSER INCLUDED OFFENSES
- Manslaughter, **8:21**
- Murder, **8:5**
- Standard instructions, issue by issue instructions, **1:7**

LICENSES
- Forgery, **14:10**
- Trade, business, or profession, practicing law, medicine, dentistry or pharmacy without license, **15:5, 15:6**

LIENS OR ENCUMBRANCES
- False pretenses, selling or encumbering property previously sold or encumbered, **13:6**
- Property, removing out of state property subject to lien, **12:30**

LIFE IMPRISONMENT
- Capital murder, defendant under life sentence, **8:7**
- Standard instructions, verdict forms, **1:27, 1:28**

LIVESTOCK
- Larceny by stealing, **12:22**

LOANS
- Public officials, unauthorized loan of public money or property with intent to defraud, **11:8**

LOOTING
- Property, **12:27**

MALICE
- Arson, malicious attempt to burn, **12:6**

MALICE AFORETHOUGHT
- Murder, **8:1**

MANSLAUGHTER
- Homicide. See index heading HOMICIDE

MANUFACTURE
- Definition, **3:20**

MARIJUANA
- Controlled substances. See index heading CONTROLLED SUBSTANCES

MARRIAGE
- Cohabitation, adultery, or fornication between persons forbidden to marry, **16:1, 16:2**
- Enticement of child for, **9:3**
- False personation to marry, **13:1**
- Foreign state marriage, cohabitation, adultery, or fornication between persons forbidden to marry, **16:2**
- Incest between persons forbidden to marry, **16:4**
- Public morals and decency
  - cohabitation, adultery, or fornication between persons forbidden to marry, **16:1, 16:2**
  - foreign state marriage, cohabitation, adultery, or fornication between persons forbidden to marry, **16:2**
  - incest between persons forbidden to marry, **16:4**

MARSH
- Arson, setting fire to marsh, **12:8 to 12:10**

MAYHEM
- Generally, **8:38**

MEADOW
- Arson, setting fire to meadow, **12:8 to 12:10**

MEDICINE
- Trade, business, or profession, practice of medicine without license, **15:5, 15:6**

MEMORY
- See index heading STANDARD INSTRUCTIONS

MENACE
- Assault, attempts by physical menace to put another in fear of imminent serious bodily harm, **7:16**
- Domestic violence, attempts by physical menace to put family member in fear of imminent serious bodily harm, **7:43**

MENTALLY DEFECTIVE PERSONS
- Fondling, **9:4**

MINORS
- See index heading CHILDREN OR MINORS

MISTAKE OR ERROR
- Affirmative defenses. See index heading AFFIRMATIVE DEFENSES

MODIFICATION OR CHANGE
- Forgery, possession of impression from plate used for alteration of evidence of debt, **14:19**
- Standard instructions, modified Allen charge, **1:25**

MONEY
- Embezzlement. See index heading PUBLIC OFFICIALS
- False personation to receive, **13:2**
- Public officials. See index heading PUBLIC OFFICIALS

MORALITY
- See index heading PUBLIC MORALS AND DECENCY

MOTOR VEHICLES
- Generally, **5:1 to 5:9**
- Carjacking. See index heading CARJACKING
- Chemical test results available, driving under the influence
  - above legal age to purchase alcohol, **5:5**
  - below legal age to purchase alcohol, **5:6**
  - commercial motor vehicle, operation of, **5:7**
- Death caused by driving under the influence, **5:8**
- Driving under the influence
  - generally, **5:1**

MOTOR VEHICLES—Cont'd
- Driving under the influence—Cont'd
  - chemical tests. See "Chemical test results available" under this index heading
  - death caused by, **5:8**
  - definition, **3:15, 5:4**
  - habitual offenders, **5:2, 5:3**
  - injury caused by, **5:8**
- Injury caused by driving under the influence, **5:8**
- Violation of motor vehicle or traffic regulations, **5:9**

MURDER
- See index heading HOMICIDE

NEGLIGENCE
- Arson, setting fire to woods, marsh or meadow, **12:10**
- Assault. See index heading ASSAULT
- Definition, culpable negligence, **3:10**
- Homicide, culpable negligence, **8:20**

NIGHTTIME
- Burglary. See index heading BURGLARY

NONSUPPORT
- Child under age of 18, **9:2**

NOTE-TAKING
- Forbidden during trial, **1:8**
- Permitted during trial, **1:9**
- Use of notes during deliberations, **1:10**

NOTES
- See index heading BILLS AND NOTES

OBLITERATION
- Forgery, obliterating writing deemed, **14:7**

OBSCENE PHONE CALLS
- Public morals and decency, **16:5**

OBSTRUCTING ARREST
- Administration of justice, **10:9**

OBSTRUCTION OF JUSTICE
- Attorney, intimidation of, **10:5**

OBSTRUCTION OF JUSTICE —Cont'd
- Bribing
  - judge, **10:17**
  - juror or receiving a bribe by a juror, **10:18, 10:19**
  - witness or receiving a bribe by a witness, **10:13, 10:14**
- Definition of giving criminal assistance, **10:10**
- Hindering prosecution
  - felony, **10:11**
  - misdemeanor, **10:12**
- Intimidation of
  - judge or attorney, **10:5**
  - juror, **10:5, 10:20**
  - witness, **10:5, 10:15**
- Judge
  - bribing, **10:17**
  - intimidation of, **10:5**
- Jurors
  - bribing or receiving a bribe by a juror, **10:18, 10:19**
  - intimidation, **10:5, 10:20**
  - tampering with, **10:21**
- Retaliation, **10:23**
- Tampering with
  - evidence, **10:22**
  - jurors, **10:21**
  - witnesses, **10:16**
- Witnesses
  - bribing or receiving a bribe by a witness, **10:13, 10:14**
  - intimidation, **10:5**
  - tampering with, **10:16**

OFFICIAL SEAL
- Forgery, **14:13**

OLD PERSONS
- See index heading VULNERABLE ADULTS

OUTBUILDING
- Arson, first degree burning of outbuilding, **12:1**

PARENTS
- See index heading CHILDREN OR MINORS

PEACE OFFICER
- Definition, **3:21**

PERJURY
- Administration of justice
  - bribery to procure perjury, **10:8**
  - definition of perjury, **10:6**
  - subornation of perjury, **10:7**
- Bribery to procure perjury, **10:8**
- Definition of perjury, **10:6**
- Subornation of perjury, **10:7**

PERSONAL INJURIES
- Assault. See index heading ASSAULT
- Motor vehicle offenses, injury caused by driving under the influence, **5:8**
- Robbery, threat to injure person or relative at another time, **8:33**
- Self-defense, use of deadly force against threat of serious bodily injury, **2:14**

PERSONAL PROPERTY
- Arson, **12:5**

PHARMACY
- Trade, business, or profession, practice of pharmacy without license, **15:5, 15:6**

PLATES
- Forgery. See index heading FORGERY

POLICE
- See index heading LAW ENFORCEMENT OFFICERS

POSSESSION
- Burglar's tools, **12:18**
- Controlled substances. See index heading CONTROLLED SUBSTANCES
- Definitions, **3:22**
- Forgery. See index heading FORGERY
- Gambling device, **14:1**
- Weapons, **17:3, 17:4**

PRELIMINARY INSTRUCTIONS
- Standard instructions, **1:1**

PRESUMPTION OF INNOCENCE
- Standard instructions, **1:11**

PRINTING
- Forgery, possession of plate to print note, check, or other evidence of debt, **14:18**

PRIOR INCONSISTENT STATEMENTS
- Standard instructions, **1:19**

PRISONS AND PRISONERS
- Escape. See index heading ESCAPE

PROBATE RECORDS
- Forgery, **14:12**

PROCUREMENT
- Administration of justice, bribery for procurement of perjury, **10:8**

PRODUCTION
- Definition, **3:24**

PROFESSIONS
- See index heading TRADE, BUSINESS, OR PROFESSION

PROPERTY AND PROPERTY RIGHTS
- Generally, **12:1 to 12:31**
- Arson. See index heading ARSON
- Burglary. See index heading BURGLARY
- Cemeteries. See index heading CEMETERIES
- Churches. See index heading CHURCHES
- Defacing cemetery property, churches, schools, or public buildings, **12:29**
- Destruction of property. See index heading DESTRUCTION OF PROPERTY
- Embezzlement. See index heading PUBLIC OFFICIALS
- Foreign state or country, removing out of state property subject to lien, **12:30**
- Forgery of will, deed, or other instrument affecting property rights, **14:15**
- Intent to prevent seizure, removing property subject to legal seizure, **12:31**
- Larceny. See index heading LARCENY

PROPERTY AND PROPERTY RIGHTS—Cont'd
- Lien, removing out of state property subject to, **12:30**
- Looting, **12:27**
- Public buildings. See index heading PUBLIC BUILDINGS
- Public officials. See index heading PUBLIC OFFICIALS
- Removal of property, **12:30, 12:31**
- School property. See index heading SCHOOLS AND EDUCATION
- Seizure, removing property subject to legal seizure, **12:31**
- Trade, business, or profession, embezzlement of property held in trust, **15:4**

PROSTITUTION
- Children or minors, enticement of child for prostitution, **9:3**

PROXIMITY
- Controlled substances. See index heading CONTROLLED SUBSTANCES

PUBLIC BUILDINGS
- Defacing cemetery property, churches, schools, or public buildings, **12:29**
- Destruction or injury to, **12:28**

PUBLIC MORALS AND DECENCY
- Generally, **16:1 to 16:10**
- Accepting bribe involving athletic contest, **16:10**
- Annoy, telephone, telecommunication or electronic communication used to, **16:5**
- Athletic contest
  - accepting bribe involving athletic contest, **16:10**
  - bribery, generally, **16:9**
- Bigamy, **16:3**
- Bribery. See "Athletic contest" in this index heading
- Cemeteries, grave robbing, **16:8**
- Cohabitation, adultery, or fornication between persons forbidden to marry, **16:1, 16:2**

PUBLIC MORALS AND DECENCY—Cont'd
- Foreign state marriage, cohabitation, adultery, or fornication between persons forbidden to marry, **16:2**
- Grave robbing, **16:8**
- Harass, telephone, telecommunication or electronic communication used to, **16:5**
- Incest between persons forbidden to marry, **16:4**
- Marriage. See index heading MARRIAGE
- Obscene phone calls, **16:5**
- Robbery, grave robbing, **16:8**
- Sexual intercourse
  - marriage. See "Marriage" in this index heading
  - unnatural carnal intercourse, **16:6**
- Telephone used to make obscene phone calls or to threaten, annoy, or harass, **16:5**
- Threaten, telephone, telecommunication or electronic communication used to, **16:5**
- Unnatural carnal intercourse, **16:6**
- Voyeurism, **16:7**

PUBLIC OFFICE
- Forgery of account books in, **14:2**

PUBLIC OFFICIALS
- Acceptance of bribe, **11:2**
- Assault. See index heading ASSAULT
- Bad faith refusal to deliver materials to successor in office, **11:5**
- Bribery
  - generally, **11:1**
  - acceptance of bribe, **11:2**
- Delivery. See "Embezzlement" in this index heading
- Embezzlement
  - bad faith refusal to deliver materials to successor in office, **11:5**
  - delivery
    - failure to deliver property, **11:4**
    - willful or bad faith refusal to deliver materials to successor in office, **11:5**
  - endorsing false warrant, **11:7**

PUBLIC OFFICIALS—Cont'd
- Embezzlement—Cont'd
  - entry, false entry with intent to defraud, **11:6**
  - failure to pay over money or deliver property, **11:4**
  - false entry with intent to defraud, **11:6**
  - intent
    - false entry with intent to defraud, **11:6**
    - unauthorized loan of public money or property with intent to defraud, **11:8**
  - loans, unauthorized loan of public money or property with intent to defraud, **11:8**
  - money
    - failure to pay over money, **11:4**
    - unauthorized loan of public money or property with intent to defraud, **11:8**
    - wrongful act as to public money, **11:3**
  - property
    - failure to deliver property, **11:4**
    - unauthorized loan of public money or property with intent to defraud, **11:8**
    - wrongful act as to public property, **11:3**
  - refusal to deliver materials to successor in office, **11:5**
  - successor in office, willful or bad faith refusal to deliver materials to, **11:5**
  - unauthorized loan of public money or property with intent to defraud, **11:8**
  - warrants, certifying or endorsing false warrant, **11:7**
  - willful or bad faith refusal to deliver materials to successor in office, **11:5**
  - wrongful act as to public money or property, **11:3**
- Endorsing false warrant, embezzlement, **11:7**
- Entry, false entry with intent to defraud, **11:6**

PUBLIC OFFICIALS—Cont'd
- Failure to pay over money or deliver property, **11:4**
- False entry with intent to defraud, embezzlement, **11:6**
- Intent. See "Embezzlement" in this index heading
- Killing, capital murder, **8:13**
- Loans, unauthorized loan of public money or property with intent to defraud, **11:8**
- Money. See "Embezzlement" in this index heading
- Property. See "Embezzlement" in this index heading
- Refusal to deliver materials to successor in office, embezzlement, **11:5**
- Successor in office, willful or bad faith refusal to deliver materials to, **11:5**
- Unauthorized loan of public money or property with intent to defraud, **11:8**
- Warrants, certifying or endorsing false warrant, **11:7**
- Willful or bad faith refusal to deliver materials to successor in office, **11:5**
- Wrongful act as to public money or property, embezzlement, **11:3**

PUNISHMENT
- See index heading SENTENCE AND PUNISHMENT

PURCHASES
- See index heading SALES

RAPE
- Children or minors. See index heading CHILDREN OR MINORS
- Statutory rape. See index heading CHILDREN OR MINORS

RAVISH
- Assault with intent to ravish, **7:41**

REASONABLE DOUBT
- Standard instructions, **1:12, 1:13**

RECEIPT OF STOLEN PROPERTY
Larceny, **12:26**

RECKLESSNESS
Arson, setting fire to woods, marsh or meadow, **12:10**
Assault. See index heading ASSAULT

RECORDS AND REPORTS
Arson, failure to report accidental fire at school building, **12:3**
Forgery, records of court, **14:12**

RECORDS OF COURT
Forgery, **14:12**

REFUSAL
Public officials, refusal to deliver materials to successor in office, **11:5**

REMOVAL
Property, **12:30, 12:31**

RENTAL AGREEMENT
Larceny of property obtained by rental agreement, **12:25**

REPORTS
See index heading RECORDS AND REPORTS

RESEARCH ABOUT CASE BY JURORS
Prohibited, **1:4**

RESISTING AN UNLAWFUL ACT
Manslaughter, **8:16**

RESISTING ARREST
Administration of justice, **10:9**

ROBBERY
Armed robbery attempted, **8:35**
Attempted armed robbery, **8:35**
Deadly weapon, use of, **8:34**
Defined, **8:32**
Grave robbing, **16:8**
Public morals and decency, grave robbing, **16:8**
Threat to injure person or relative at another time, **8:33**
Weapons and firearms
  attempted armed robbery, **8:35**

ROBBERY—Cont'd
Weapons and firearms—Cont'd
  deadly weapon, use of, **8:34**

SALE, SELL, OR SELLING
Definition, **3:25**

SALES
Controlled substances. See index heading CONTROLLED SUBSTANCES
Counterfeit note, check, or other evidence of debt, sale of, **14:16**
Definition, sale, sell, or selling, **3:25**
False pretenses, selling or encumbering property previously sold or encumbered, **13:6**
Kidnapping, buying or attempting to sell or buy a child as, **8:28**
Trade, business, or profession. See index heading TRADE, BUSINESS, OR PROFESSION

SCHEDULE I OR II CONTROLLED SUBSTANCE
See index heading CONTROLLED SUBSTANCES

SCHEDULE III, IV, OR V CONTROLLED SUBSTANCE
See index heading CONTROLLED SUBSTANCES

SCHOOLS AND EDUCATION
Arson, first degree burning of school building, **12:2, 12:3**
Controlled substances. See index heading CONTROLLED SUBSTANCES
Defacing school property, **12:29**
Destruction or injury to school property, **12:28**
Murder perpetrated on school property, **8:12**
Property
  arson, first degree burning of school building, **12:2, 12:3**
  controlled substances. See index heading CONTROLLED SUBSTANCES
  defacing school property, **12:29**
  definition of educational property, **3:16**

SCHOOLS AND EDUCATION —Cont'd
  Property—Cont'd
    destruction or injury to school property, **12:28**
    murder perpetrated on school property, **8:12**
    weapon, possessing a weapon on educational property, **17:4**
  Weapon, possessing a weapon on educational property, **17:4**

SEALS
  Forgery of official or corporate seal, **14:13**

SECOND DEGREE
  Arson, burning of any building, **12:4**

SECURITY
  Forgery, issuing false security, **14:5**

SEIZURE
  Property, removing property subject to legal seizure, **12:31**

SELECTION
  Standard instructions, selection of foreman, **1:22**

SELF-DEFENSE
  Affirmative defenses, **2:13 to 2:15**

SEVERANCE
  Larceny by severing crops, fences, or improvements, **12:21**

SEX AND SEXUAL OFFENSES
  Battery, sexual, **9:9, 9:10**
  Cohabitation. See index heading COHABITATION
  Definition of sexual intercourse, **3:26**
  Public morals and decency. See index heading PUBLIC MORALS AND DECENCY
  Rape. See index heading RAPE
  Sexual battery, children or minors, **9:9, 9:10**
  Stepchild, adopted child, or child or cohabiting partner, carnal knowledge of, **9:11**
  Unnatural carnal intercourse, **16:6**

SEXUAL BATTERY
  Children or minors, **9:9, 9:10**

SHOPLIFTING
  Trade, business, or profession, **15:7**

SIGNATURES
  False pretenses, signature obtained with intent to deceive, **13:3**
  Forgery, signing false name to corporate evidence of debt, **14:6**

SILENCE
  Defendant's right not to testify, **1:14**

SIMPLE ASSAULT
  See index heading ASSAULT

SIMPLE DOMESTIC VIOLENCE
  Generally, **7:42, 7:43**

SIXTEEN YEARS OLD
  Kidnapping child under age of, **8:26**

SPECIFIC INTENT
  Affirmative defenses, mistake or ignorance of law, **2:10**

SPOUSE
  Marriage. See index heading MARRIAGE

STANDARD INSTRUCTIONS
  Accomplice testimony, weight and credibility of, **1:18**
  Additional instruction for deadlocked jury, Fifth Circuit modified Allen charge, **1:25**
  Admissibility. See index heading ADMISSIBILITY
  Approval for use within state courts, instructions for deadlocked jury, **1:24**
  Bifurcated hearing, form of verdict when life imprisonment sentence possible, **1:28**
  Burden of proof, presumption of innocence, **1:11**
  Capital case, verdict forms, **1:29**
  Checklist for drafting criminal instructions, **1:5**
  Communicating with court during deliberations, **1:22**

STANDARD INSTRUCTIONS —Cont'd
- Conspiracy, accessories, and attempts, general attempt instruction, **6:4**
- Deadlocked jury. See index heading DEADLOCKED JURY
- Defendant's right not to testify, **1:14**
- Deliberations. See index heading DELIBERATIONS
- Electronic media, prohibition of use of, **1:3**
- Evidence. See index heading EVIDENCE
- Fifth Circuit modified Allen charge, additional instruction for deadlocked jury, **1:25**
- Foreman, selection of, **1:22**
- General instructions, generally, **1:2**
- Impeachment purposes, admissibility of statement for, **1:15**
- Innocence, presumption of, **1:11**
- Issue by issue instructions. See index heading ISSUE BY ISSUE INSTRUCTIONS
- Lesser included offenses, issue by issue instructions, **1:7**
- Life imprisonment sentence possible, verdict forms, **1:27, 1:28**
- Memory aid for jurors. See "Note-taking" under this index heading
- Modified Allen charge, additional instruction for deadlocked jury, **1:25**
- Note-taking
  - forbidden during trial, **1:8**
  - permitted during trial, **1:9**
  - use of notes during deliberations, **1:10**
- Preliminary instructions, **1:1**
- Presumption of innocence, **1:11**
- Prior inconsistent statements by witnesses, evidence of, **1:19**
- Reasonable doubt, **1:12, 1:13**
- Research about case, prohibited, **1:4**
- Selection of foreman, deliberations, **1:22**
- Silence, defendant's right not to testify, **1:14**

STANDARD INSTRUCTIONS —Cont'd
- Unanimous verdict, deliberations, **1:23**
- Verdict. See index heading VERDICT
- Weight and credibility of accomplice testimony, **1:18**

STATUTORY RAPE
- See index heading CHILDREN OR MINORS

STEPCHILD
- Carnal knowledge of, **9:11**

STOCK
- Forgery, issuing false stock, **14:5**

STRANGULATION
- Generally, **7:45 to 7:47**
- Definition of strangle, **3:27**

SUBORNATION OF PERJURY
- Administration of justice, **10:7**

SUBSEQUENT OFFENDERS
- Carrying a concealed weapon, **17:1**
- Driving under the influence, **5:2, 5:3**
- Practicing law, medicine, dentistry or pharmacy without a license, **15:6**

SUBSTITUTES OR SUBSTITUTION
- False pretenses, substituting child to deceive parent or guardian, **13:7**

SUCCESSOR IN OFFICE
- Willful or bad faith refusal to deliver materials to, **11:5**

SUICIDE
- Assisting as manslaughter, **8:23**

SUPPORT OF PERSONS
- Child under age of 18, nonsupport of, **9:2**

SURETY
- False personation to become surety, **13:1**

TAMPERING
- See index heading OBSTRUCTION OF JUSTICE

TELECOMMUNICATIONS
  Public morals and decency, telecommunications used for obscene threatening, annoying, or harassing communications, **16:5**

TELEPHONES
  Public morals and decency, telephone used to make obscene phone calls or to threaten, annoy, or harass, **16:5**

TENANTS IN COMMON
  Larceny by, **12:24**

THIRD DEGREE
  Arson, burning personal property, **12:5**

THREATS
  Public morals and decency, telephone, telecommunications or electronic communication used to threaten, **16:5**
  Robbery, threat to injure person or relative at another time, **8:33**
  Self-defense, use of deadly force against threat of serious bodily injury, **2:14**

TIMBER
  Larceny by stealing, **12:23**

TOOLS
  Burglar's tools, possession of, **12:18**

TRADE, BUSINESS, OR PROFESSION
  Agent, embezzlement by, **15:1**
  Bailee, embezzlement by, **15:1**
  Barter of intoxicating beverages, **15:8**
  Buying embezzled goods, **15:3**
  Contract, embezzlement of property received on, **15:4**
  Debt, embezzlement of evidence of, **15:2**
  Dentistry, practice of dentistry without license, **15:5, 15:6**
  Embezzlement
    buying of embezzled goods, buying of, **15:3**
    contract, embezzlement of property received on, **15:4**

TRADE, BUSINESS, OR PROFESSION—Cont'd
  Embezzlement—Cont'd
    employee, agent, bailee or trustee, embezzlement by, **15:1**
    evidence of debt, **15:2**
    receiving or buying embezzled goods, **15:3**
    trusts and trustees. See "Trusts and trustees" in this index heading
  Employee, embezzlement by, **15:1**
  Evidence of debt, embezzlement of, **15:2**
  Gift of intoxicating beverages, **15:8**
  Intoxicating beverages, illegal possession, sale, barter, or gift of, **15:8**
  Law, practice of law without license, **15:5, 15:6**
  License, practicing law, medicine, dentistry or pharmacy without, **15:5, 15:6**
  Medicine, practice of medicine without license, **15:5, 15:6**
  Pharmacy, practice of pharmacy without license, **15:5, 15:6**
  Property held in trust, embezzlement of, **15:4**
  Sales
    embezzled goods, buying of, **15:3**
    intoxicating beverages, sale of, **15:8**
  Shoplifting, **15:7**
  Trusts and trustees
    embezzlement by trustee, **15:1**
    property held in trust, embezzlement of, **15:4**

TREASURY WARRANT
  Forgery of, **14:14**

TRESPASS
  Homicide victim engaged in, **8:17**

TRUSTS AND TRUSTEES
  Trade, business, or profession. See index heading TRADE, BUSINESS, OR PROFESSION

UNANIMOUS VERDICT
  Standard instructions, deliberations, **1:23**

UNNATURAL CARNAL INTERCOURSE
- Public morals and decency, **16:6**

USE OF A DEADLY WEAPON [HOMICIDE]
- Definition, **3:28**

VALUE OR VALUATION
- Aggravated assault, recklessly under circumstances manifesting extreme indifference to value of human life, **7:25 to 7:27**
- Capital murder, value offered or received for committing murder, **8:9**

VEHICLES
- See index heading MOTOR VEHICLES

VERDICTS
- Generally, **1:26**
- Affirmative defenses, insanity defense, **2:7**
- Capital case, sentencing instructions, **1:29**
- Insanity defense, **2:7**
- Life imprisonment sentence possible, **1:27, 1:28**
- Standard instructions, **1:26 to 1:30**
- Unanimous verdict, deliberations, **1:23**

VOLUNTARY OR INVOLUNTARY MATTERS
- Affirmative defenses, voluntary intoxication, **2:8**
- Kidnapping. See index heading KIDNAPPING

VOYEURISM
- Public morals and decency, **16:7**

VULNERABLE ADULT
- Assault. See index heading ASSAULT
- Definition, **3:29**
- Kidnapping, **8:27**

WARRANTS
- Forgery of treasury warrant, **14:14**

WARRANTS—Cont'd
- Public officials, certifying or endorsing false warrant, **11:7**

WEAPONS AND EXPLOSIVES
- Assault. See index heading ASSAULT
- Burglary. See index heading BURGLARY
- Carrying a concealed weapon, **17:1, 17:2**
- Definition of deadly weapon, **3:12**
- Educational property, possessing a weapon 0n, **17:4**
- Felons, carrying or possession of weapon by convicted felon, **17:2, 17:3**
- Homicide, use or detonation of bomb or explosive device, **8:8**
- Possessing a weapon, **17:3, 17:4**
- Robbery. See index heading ROBBERY
- Subsequent offenders, carrying a concealed weapon, **17:1**

WEIGHT AND CREDIBILITY OF ACCOMPLICE TESTIMONY
- Standard instructions, **1:18**

WIFE
- Marriage. See index heading MARRIAGE

WILLFULNESS
- Arson. See index heading ARSON
- Public officials, willful or bad faith refusal to deliver materials to successor in office, **11:5**

WILLS
- Forgery of, **14:15**

WITNESSES
- Administration of justice, generally, **10:5**
- Obstruction of justice. See index heading OBSTRUCTION OF JUSTICE

WOODS
- Arson, setting fire to woods, **12:8 to 12:10**

WORTHLESS CHECKS
- False pretenses, **13:8, 13:9**

42577539